VEATCH CARLSON, LLP
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
1055 Wilshire Boulevard, 11th Floor
LOS ANGELES, CALIFORNIA 90017
TELEPHONE (213) 381-2861
FACSIMILE (213) 383-6370

(SPACE BELOW FOR FILING STAMP ONLY)

ROBERT T. MACKEY, State Bar No. 210810
rmackey@veatchfirm.com
RICHARD P. DIEFFENBACH, State Bar No. 102663
rdieffenbach@veatchfirm.com
JOHN P. WORGUL, State Bar No. 259150
jworgul@veatchfirm.com
Peter H. Crossin, State Bar No. 163189
pcrossin@veatchfirm.com

Attorneys for Defendant, **BRANT BLAKEMAN**

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

CORY SPENCER, an individual; DIANA MILENA REED, an individual; and COASTAL PROTECTION RANGERS, INC., a California non-profit public benefit corporation,

Plaintiffs ,

v.

LUNADA BAY BOYS; THE INDIVIDUAL MEMBERS OF THE LUNADA BAY BOYS, including but not limited to SANG LEE, BRANT BLAKEMAN, ALAN JOHNSTON AKA JALIAN JOHNSTON, MICHAEL RAE PAPAYANS, ANGELO FERRARA, FRANK FERRARA, CHARLIE FERRARA, and NICOLAS FERRARA; CITY OF PALOS VERDES ESTATES; CHIEF OF POLICE JEFF KEPLEY, in his representative capacity; and DOES 1-10,

Defendants.

Case No.: 2:16-CV-2129-SJO-RAO
Assigned to Courtroom: 10C
The Honorable S. James Otero

Magistrate Judge:
Hon. Rozella A. Oliver

JOINT STIPULATION RE DISCOVERY PROPOUNDED BY DEFENDANT BRANT BLAKEMAN TO PLAINTIFFS [L.R.37-2.1]

Discovery Cut-Off Date: 8/7/17
Pretrial Conf. Date: 10/23/17
Trial Date: 11/7/17

NB: With identical discovery and virtually identical responses to and from each Plaintiff, a consolidated stipulation as to all discovery is agreed to by the parties.

TABLE OF CONTENTS

1. **DEFENDANT BLAKEMAN'S INTRODUCTORY STATEMENT**

On March 29, 2016 Plaintiffs Cory Spencer, Diana Milena Reed, and Costal Protection Rangers, Inc., (collectively "Plaintiffs") filed a complaint against various defendants including Brant Blakeman ("Blakeman"). (See Doc. 1 [Complaint].) The complaint alleges, *inter alia*, Blakeman is part of a gang called the Lunada Bay Boys, he is part of a Civil Conspiracy, and that a class should be certified against him and the Lunada Bay Boys under Fed. R. of Civ. P. 23. (See Id.,¶¶ 4- 7 , ¶¶ 51- 53 ¶¶ 30-42 .) Each Plaintiff alleges causes of action against Blakeman for Bane Act violations, Public Nuisance, Assault, Battery, and Negligence. (See Id., ¶¶ 43- 50, ¶¶ 54-60,¶¶ 95- 98, ¶¶ 99- 101, ¶¶ 102- 106.)

A Rule 26 meeting occurred on August 5, 2016. (Doc. 106 [R. 26 Joint Report], pp. 2:23-4:3.) Despite this case being a class action plaintiff's took the position that discovery should generally not be expanded beyond the standard confines in the Federal Rules, including not phasing discovery between class and merits discovery. (See Id., pp. 7:6- 9:18.) The scheduling order does not modify rules regarding discovery and the parties were expressly reminded of their obligations under Fed. R. Civ. P. 26-1(a) to disclose information without a discovery request. (See Doc. 120 [Minutes RE Scheduling Conference].)

Plaintiffs' initial disclosures were served as a collective response on August 19, 2016 and they disclosed 116 witnesses. (See Ex. 1 [Plaintiffs' Initial Disclosures]. pp. 3:6-17:28.) Plaintiffs refused to disclose the subject of the information discoverable from 77 non party witnesses. (See Ex. 1 pp. 3:6-17:28 [Witnesses Nos. 11, 12, 15-91] .)

On September 2, 2016 Blakeman sent a letter to Plaintiffs addressing their failure to adequately provide discoverable information and requesting a meeting under Local Rule 37-1. (See Exhibit 2 [Sept. 2, 2016 Letter].) Plaintiffs responded on September 7, 2016 and indicated they would not comply with the time requirements of Local Rule 37-1. (See Exhibit 3 [Sept. 7, 2016 Email].) This

was despite plaintiffs being represented by two law firms, and one which appears to have more than 150 attorneys. (https://www.hansonbridgett.com/Our-Attorneys.aspx.)

On September 9, 2016 Blakeman responded to Plaintiffs.(See Ex. 4 [Sept. 9, 2016 Letter].) Plaintiffs refused to have L.R. 37-1 conference until September 14, 2016 and refused to meet in person. Plaintiffs agreed to supplement the disclosures by September 23, 2016. They failed to do so. They then acknowledged the failure and promised to send them by September 30th. (See Ex 5, Sept. 28, 2016 email.) They failed again. Plaintiffs' supplemental disclosures were not sent until Sunday October 2, 2016. (See Ex. 6, pp. 31:19-32:8 [Plaintiffs' Supplemental Disclosures].) The supplemental disclosures indicate only one non-party witness who may have knowledge as to Blakeman. (See Id., pp. 19:16-21 [Witness No. 60, Ken Claypool].)

During the dispute over the disclosure Blakeman propounded on each plaintiff the same 12 interrogatories and 12 production requests on September 16, 2016. (See Ex. 7 [Interrogatories] and Ex. 8 [Request for Production].) The discovery requests seek the identity of witnesses, the facts believed to be within that witnesses knowledge, and the production of documents that support specific contentions in Plaintiffs' complaint against Blakeman.

While the discovery was pending Plaintiffs noticed and rescheduled Blakeman's deposition for November 10, 2016. On October 20, 2016 Plaintiffs mailed their discovery responses from their counsel's San Francisco and Sacramento offices. (See Ex. 9 [Plaintiffs' Responses to Interrogatories] and Ex. 10 [Plaintiffs' Responses to Production Requests].) The interrogatory response contained only objections and the responses to the production requests did not include the production of any documents despite Plaintiffs' affirmation that documents would be produced. (See Ex. 9 [All Interrogatories] and Ex. 10 [Request Nos. 1-5 and 7-9].)

On October 28, 2016 a meet confer letter was sent to Plaintiffs' counsel Kurt Franklin as his office had signed and served Plaintiffs' discovery responses. (Ex. 11 [Oct. 28, 2016 Letter].) In the letter the merits of the objections were addressed, further responses were requested, documents were requested to be produced, the letter in no uncertain terms indicated Blakeman's deposition will not go forward until the dispute was resolved, *and a meeting was requested pursuant to Local Rule 37-1*. (Id.) Mr. Franklin has never responded directly to this correspondence nor have any of the 150 or more attorneys at his law firm.

Plaintiffs' counsel in Los Angeles, Mr. Otten, on November 1, 2016 indicated he was not willing to take Blakeman's deposition off calendar, was in trial, was willing to meet after Blakeman's deposition, and would respond to the contention in writing at a later time. (Ex. 12., Nov. 1, 2016 email from Otten].)

On November 7, 2016, 10 days after Blakeman's meet and confer letter was sent, Blakeman again sent a letter detailing Plaintiffs' discovery abuses including withholding of discoverable information by Plaintiffs and the discovery delays caused by Plaintiffs. (See Ex. 13 [Nov. 7, 2016 Email and Letter].)

Later that same day, and after Blakeman's correspondence was sent by email to Plaintiffs, Plaintiffs responded to Blakeman's October 28, 2016 letter refusing to identify witnesses or further respond to the interrogatories and referencing their having dumped 2000 pages of documents on Friday November 4, 2016 on the parties. (See Ex. 14 [November 7, 2016 Email and Letter].) The dumped documents referenced are not identified as responsive to the discovery.

The dispute comes before the Court because by Plaintiffs' stalling non-compliance with Local Rule 37-1 and FRCP 37, Blakeman is prejudiced in his defense, and he seeks an order compelling the discovery, and costs from this Court.

2. <u>PLAINTIFFS' INTRODUCTORY STATEMENT</u>

The Plaintiffs brought this lawsuit to stop a gang known as the Lunada Bay Boys from excluding people from accessing and using a public beach called

Lunada Bay located in Palos Verdes Estates. The Complaint alleges that for 40 years, the Lunada Bay Boys – which includes the individually-named Defendants – have used illegal means, such as assault, threats, vandalism, and intimidation, to block non-local beachgoers from accessing the beach and Lunada Bay.

This discovery dispute involves individual Defendant Brant Blakeman's improper and premature discovery requests. Plaintiffs filed the Complaint on June 16, 2016. The parties first met and conferred to discuss case management in this matter pursuant to Fed. R. Civ. P. 26(f) on August 5, 2016, prior to the Scheduling Conference on August 29, 2016. Discovery first commenced on September 11, 2016, just two and a half months ago. The discovery cut-off is more than eight months away, on August 7, 2017. Plaintiffs' last day to file a Motion for Class Certification is December 30, 2016, and trial is set for November 7, 2017.

Discovery is in its early stages. Defendants have over 8 months to propound discovery, including requests about contentions. Contention discovery is appropriate when discovery is "substantially complete." *See* Fed. R. Civ. P. 33(a)(2). Thus, Defendants' discovery and the instant motion are premature.

Additionally, to date, none of the individual Defendants have produced a single document in discovery – either pursuant to their initial disclosures or in response to requests for production of documents. In fact, Mr. Blakeman identified in his initial disclosures that he is in possession of two videos but has failed to turn them over to Plaintiffs. One of these videos relates to an incident involving Plaintiff Diana Reed and Defendants Alan Johnston and Blakeman, and is described in the Complaint. On November 21, 2016, Plaintiffs deposed Mr. Blakeman (who had to be ordered by this court to appear for his deposition) without the benefit of having viewed this video. This is significant because Mr. Blakeman is seeking to compel Plaintiffs' responses to contention interrogatories but, as set forth above, he is in control of much of the evidence needed to respond.

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Improper Procedure and Insufficient Meet and Confer Attempt

On September 16, 2016, Mr. Blakeman served identical Interrogatories and Requests of Production of Documents on Plaintiffs Cory Spencer, Diana Milena Reed, and the Coastal Protection Rangers. While this discovery contained requests that were objectionable in many respects, most significantly, it was premature because they sought or necessarily relied upon a contention. On October 20, 2016, Plaintiffs served timely objections and responses, and indicated that a production with non-privileged, responsive documents would be forthcoming.

On October 28, 2016, Mr. Blakeman's counsel, Richard Dieffenbach, sent a letter regarding Plaintiffs' discovery responses. (Decl. Otten, **Exh. A**.) In his letter, Mr. Dieffenbach improperly correlated the dispute over Plaintiffs' discovery responses with Mr. Blakeman's obligation to appear for his deposition and refused to produce Mr. Blakeman for his properly-noticed deposition on November 10, 2016. Mr. Dieffenbach also requested a conference pursuant to L.R. 37-1.

On Tuesday, November 1, 2016, counsel for Plaintiffs, Victor Otten, replied to Mr. Dieffenbach via email to remind him of Mr. Blakeman's obligation to appear for his deposition. Mr. Otten also stated, "because I'm in trial, I'm not available to meet on the ancillary meet-and-confer request on Plaintiffs' responses to Mr. Blakeman's deficient written discovery requests. I should be able to meet with you on this next week – perhaps we could meet after Mr. Blakeman's deposition." (Decl. Otten, **Exh. B**.)

Importantly, despite Mr. Otten's offer for an in-person meeting, Mr. Blakeman's counsel made no attempt to schedule the conference, per L.R. 37-1. (Decl. Otten, ¶ 4.) Defendant's counsel could have arranged an in-person or telephonic conference with Mr. Otten, or a telephonic conference with Plaintiffs' Bay Area counsel at Hanson Bridgett LLP, but requested neither. *(Id.*, ¶ 4.)

On November 4th, Plaintiffs produced 2,029 pages of responsive documents and media files. (*Id.*, ¶ 5.) Mr. Blakeman refers to this production as a "document

dump." The nature of his complaint is unclear, though ironic given his instant motion to compel documents. Of these files, 1,866 were documents previously produced by the City pursuant to a Public Records Act request. (*Id.*)

On November 7, 2016, Mr. Otten wrote to Mr. Dieffenbach and reminded Mr. Blakeman of his obligation to appear at his deposition and articulated the legal basis for Plaintiffs' objections to Mr. Blakeman's discovery. (*Id.*, **Exh. D**.) Still, Mr. Blakeman's counsel made no effort to schedule a conference as required by L.R. 37-1. (*Id.*, ¶ 7.) Instead, on November 14th at 1:08 PM, less than one hour before the telephonic hearing for Mr. Blakeman's ex parte application for a protective order to prevent his deposition, Mr. Blakeman's counsel's office sent an email with his portion of this Joint Stipulation. (*Id.*, **Exh. E**.) To date, Mr. Blakeman's counsel has still failed to schedule a conference about the issues underlying the instant motion, and instead, is wasting the Court's resources with the instant motion.

Relief Requested

Defendant Blakeman's requested relief is improper because contention interrogatories are premature at the initial stages of discovery, particularly in the context of class action litigation. Further, much of the evidence necessary to respond to his contention interrogatories is within the individual Defendants' custody or control, and they have refused to produce any documents to date. Additionally, Plaintiffs do not believe that any relief is necessary with respect to Blakeman's requests for production given Plaintiffs' November 4th production.

In light of Blakeman's continued abuse of the discovery process, Plaintiffs respectfully ask that this Court deny his requests for reimbursement of his attorneys' fees, and instead order him to compensate Plaintiffs' counsel for their fees and costs incurred in connection with this instant, needless dispute. Plaintiffs are entitled to recover their reasonable expenses. Fed. R. Civ. P. 37(a)(5).

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3. SPECIFICATION OF THE ISSUES IN DISPUTE, AND THE PARTIES' CONTENTIONS AND POINTS AND AUTHORITIES WITH RESPECT TO SUCH ISSUES INTERROGATORIES

1. IDENTIFY ALL PERSONS that have knowledge of any facts that support your contention that BRANT BLAKEMAN participated in any way in the "commission of enumerated 'predicate crimes'" as alleged in paragraph 5 of the Complaint , and for each such PERSON identified state all facts you contend are within that PERSON's knowledge.

Plaintiffs' Response to Interrogatory #1

Responding party objects to this interrogatory as unduly burdensome, harassing, and duplicative of information disclosed in Responding Party's Rule 26(a) disclosures and supplemental disclosures. Propounding Party may look to Responding Party's Rule 26(a) disclosures and supplemental disclosures for the information sought by this interrogatory. Moreover, Responding Party had the opportunity to depose Mr. Spencer on this topic.

Responding party further objects to this interrogatory as compound. This "interrogatory" contains multiple impermissible subparts, which Propounding Party has propounded in an effort to circumvent the numerical limitations on interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

Responding Party further objects to this interrogatory on the grounds that it seeks information that is outside of Responding Party's knowledge.

Responding Party further objects to the extent that this interrogatory invades attorney-client privilege and/or violates the work product doctrine by compelling Responding Party to disclose privileged communications and/or litigation strategy. Responding Party will not provide any such information.

Responding Party further objects to this interrogatory as premature. Because this interrogatory seeks or necessarily relies upon a contention, and because this matter is in its early stages and pretrial discovery has only just begun, Responding

Party is unable to provide a complete response at this time, nor is it required to do so. See *Kmiec v. Powerwave Techs. Inc.* et al., 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31 2014) at *1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may order that [a contention] interrogatory need not be answered until designated discovery is complete, or until a pretrial conference or some other time.").

Based on the foregoing objections, Responding Party will not respond to this interrogatory at this time.

Defendant Brant Blakeman's Contention

The Interrogatory seeks witness information pertaining to any and all persons who plaintiffs claim support a specific contention made against Brant Blakeman in his personal capacity, not as a member of a group but as an individual.

The interrogatories at issue merely seek the identification of witnesses and the identification of the facts believed to be within those witnesses knowledge purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his personal capacity.

The discovery requests defined "BRANT BLAKEMAN" as follows:

> BRANT BLAKEMAN means only Brant Blakeman in his individual capacity. This definition expressly excludes Brant Blakeman as an alleged member of what plaintiff alleges are the "Lunada Bay Boys." This definition expressly excludes the actions or omissions of any other PERSON other than Brant Blakeman in his individual capacity. This definition expressly excludes acts of PERSONS other than Brant Blakeman that plaintiff attributes to Brant Blakeman under a theory of Civil Conspiracy.

Failure to produce the information sought by the Interrogatory is intended only to prejudice Mr. Blakeman's defenses; especially in light of the fact that Plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely hoping to take while he is unprepared in his defense to plaintiffs' contentions

against him.

The response offers only uniform boilerplate objections. Based on those objections, the response asserts that no answers to the requests will be provided. Because the objections are unmeritorious, a further, substantive response must be compelled.

1. Undue Burden, Harassment, and Duplication

Plaintiff contends that identifying the witnesses to the claims against Mr. Blakeman is unduly burdensome and harassing and the information can be found in the initial and supplemental disclosures. Plaintiffs in their initial disclosure identify only one witness with potential knowledge concerning Mr. Blakeman, Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry presented by this Interrogatory, then it certainly strains reason that answering it is burdensome or harassing. If there are other witnesses that allege Mr. Blakeman did some act those witnesses likewise should be identified.

This objection by plaintiff is not a justification to refuse to provide a response to the interrogatory.

2. The Interrogatory is Compound and has Subparts

Plaintiff contends the Interrogatory is designed to circumvent the numerical limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit. The Interrogatory seeks the identification of a witness and the facts within that witnesses knowledge. FRCP Rule 33 allows the interrogatories to include "discrete subparts." Seeking the identification of witnesses and the facts within their knowledge are considered one interrogatory. (See *Chapman v. California Dept. of Educ.*, 2002 WL 32854376, at *1 (N.D.Cal.,2002)). For sake of mathematical exercise, even were one to entertain the contention that the Interrogatory did not contain discrete subparts, there are only two: 12 interrogatories multiplied by two equals 24, which is within the limits of FRCP Rule 33 which allows for 25 interrogatories.

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatory.

3. The Interrogatory Seeks Information that is Outside of Responding Party's Knowledge

Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's knowledge. This objection either wholly lacks merit or there are very troubling issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

How is it that plaintiff can bring such egregious allegations without some personal knowledge of witnesses who will support the allegations (including the plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing expedition against Mr. Blakeman and they were in violation of Rule 11 when the complaint was filed? If plaintiff does not have knowledge the identity of witnesses that support allegations, the response should merely state there are none. Otherwise the witnesses should be identified.

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatories.

4. The Interrogatory Invades the Attorney Client Privilege and Attorney Work Product Doctrine

Plaintiff objects that identifying witnesses and the facts within a witnesses knowledge that supports allegations that Mr. Blakeman acted in some manner invades the attorney client privilege. There is no legal support for withholding witnesses identities based on the attorney client privilege. Personal knowledge about facts are not privileged. "[T]he protection of the privilege extends only to communications and not to facts. A fact is one thing and a communication concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct. 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatory.

5. The Interrogatory is Premature as a Contention Interrogatory

Plaintiff alleges the Interrogatory seeks a contention and due to the early state of litigation and pre-trial discovery, responding party is unable to provide a complete response and, in any event, it is required to so; citing to *Kmiec v. Powerwave Techs. Inc. et al*., 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31 2014) at *1-2.; and FRCP Rule 33(a)(2).

While this is an argument that contention interrogatories can be delayed, the subject interrogatories do not fall into that context; the responding party is the party making the allegations, not the one responding to the allegations.

This action involves plaintiffs (bound by their own pleading) in their individual capacities, as well as representative capacities, alleging intentional torts, nuisance, and negligence against Mr. Blakeman. The allegations against Mr. Blakeman which each of these plaintiffs make include accusation of involvement in "predicate crimes" which include, for example, murder, mayhem, counterfeiting, rape and similar egregious crimes. Having made these allegations Plaintiffs must have some idea of the witnesses, documents or facts to support the allegations. Plaintiffs' counsel must also have some basis else they run afoul of Rule 11.

No substantive responses are provided. It is likely that no basis exists for these allegations against Mr. Blakeman; he is entitled to know the basis before facing a deposition by ambush.

Plaintiffs' refusal is fatally flawed in any event. The cases cited are inapposite.

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Kmeic was a securities litigation matter. In context, *Kmeic* reasoned that asking contention interrogatories to a shareholder plaintiff early in litigation required more time for the litigation to develop. Such is not the case with the issues involved in this litigation, where Plaintiffs each claim to represent a class of people and make specific allegations against Mr. Blakeman for which (if pled honestly) Plaintiffs alone have the supporting facts.

Folz related to contention interrogatories on defendant's affirmative defenses; something that clearly would involve significantly more discovery to develop than is the situation here where defendant is simply seeking information regarding contention's made by plaintiffs in their initial pleadings; seeking only the identification of witnesses that support plaintiffs' contentions that Mr. Blakeman committed some act. This information will allow Mr. Blakeman to depose such persons and to have a "just, speedy, and inexpensive determination [in this] action." (FRCP Rule 1.)

The identification of witnesses is important not only to Mr. Blakeman's defense but also because they would contribute meaningfully to narrow the scope of the issues in dispute, set up early settlement discussions, and expose the potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v. Technology Properties Ltd.*, 2011 WL 97787, at *2 (N.D.Cal.,2011) These factors are important in assessing whether it would be appropriate for the early use of contention interrogatories(See *In re Convergent Technologies Securities Litigation*, 108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue Rule 56 motions as there appears to be no evidence supporting the causes of action against him. It also appears that there is a lack of evidence to even support probable cause to pursue an action against him and a Rule 11 motion is likewise being considered. The discovery is thus also intended to ferret out what appears to be baseless character assassination.

In re Convergent Technologies Securities Litigation recognized the

importance of the identification of witnesses as a type of contention interrogatory that is appropriate. (Id. 108 F.R.D. at 332-333). This case, often cited for the frame work it provides related to contention interrogatories, also noted that the frame work does not apply to the identity of witnesses with knowledge of the facts giving rise to the litigation or documents supporting material factual allegations. (See Id.) The Court compelled the disclosure of the identity of witnesses early in litigation. (Id. 108 F.R.D. at 332-333).

The *In re Convergent Technologies Securities Litigation* frame work to be applied to contention interrogatories has been examined in the Central District of *California in Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 651 (C.D. Cal. 1997). This Court, in Cable & Computer Tech., Inc., explicated the evolution of the analysis of when contention interrogatories were appropriate.

Judge Chapman in *Cable & Computer Tech., Inc.* first noted the purpose of the Federal Rules of Civil Procedure.

Rule 1 of the Federal Rules of Civil Procedure directs that the rules "shall be construed to secure the just, speedy, and inexpensive determination of every action." "There probably is no provision in the federal rules that is more important than this mandate. It reflects the spirit in which the rules were conceived and written, and in which they should be, and by and large have been, interpreted..... The Supreme Court of the United States has stated that these rules 'are to be accorded a broad and liberal treatment'." *Trevino v. Celanese Corp.*, 701 F.2d 397, 405 (5th Cir.1983) (citing *Hickman v. Taylor*, 329 U.S. 495, 507, 67 S.Ct. 385, 391, 91 L.Ed. 451 (1947) and *Schlagenhauf v. Holder*, 379 U.S. 104, 114–15, 85 S.Ct. 234, 240, 13 L.Ed.2d 152 (1964)). (*Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 650 (C.D. Cal. 1997).)

Judge Chapman allayed concerns about early use of contention interrogatories and recognized that contention interrogatories are allowed under the

Federal Rules of Civil Procedure. Any concern about limiting proof based on limited answers to interrogatories is not well-founded because such answers may be withdrawn or amended, and parties have an ongoing obligation to "seasonably amend" answers throughout the litigation. (See Id., 175 F.D.R. at 650-651.)

Judge Chapman then noted that Judge Brazil, the author of *In re Convergent Technologies Securities Litigation*, had recently even acknowledged the importance of early use of contention interrogatories in certain matters:

> *In Convergent Technologies*, Judge Wayne D. Brazil, in a very thoughtful opinion, held that the 1983 amendments to Fed.R.Civ.P. 26(b) compelled his conclusion that the "wisest course is not to preclude entirely the early use of contention interrogatories, but to place a burden of justification on the party who seeks answers to these kinds of questions before substantial documentary or testimonial discovery has been completed.... [T]he propounding party must present specific, plausible grounds for believing that securing early answers to its contention questions will materially advance the goals of the Federal Rules of Civil Procedure." 108 F.R.D. at 338–39. More recently, however, Judge Brazil has modified his position, noting that contention interrogatories may in certain cases be the most reliable and cost-effective discovery device, which would be less burdensome than depositions at which contention questions are propounded. See *McCormick–Morgan, Inc. v. Teledyne Industries, Inc.*, 134 F.R.D. 275, 287 (N.D.Cal.1991) (holding appropriately framed and timed contention interrogatories rather than depositions in patent infringement action was most appropriate vehicle for establishing infringers' contentions). *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 651–52 (C.D. Cal. 1997).

In fact Judge Chapman, instead of placing the burden on the party propounding the request in justifying the need for early discovery on such issues, found placing the burden on the party opposing responding to the request, as is

done normally, was more appropriate. (See Id., 175 F.R.D. at 652.)

In this case, though, the requests made by Blakeman are appropriate no matter what analysis is applied to his alleged "contention interrogatories." The requests seek to identify witnesses. If Blakeman has the burden to show this is necessary he easily meets it as there is no way he can potentially defend his case, bring motions under Rule 56, or bring motions under Rule 11 without knowing the witnesses who supposedly support the allegations he is in a gang, that he commits intentional torts of criminal nature, or that he is engaged in some act of negligence. Alternatively, plaintiffs cannot show that they could even meet their burden in resisting disclosure of this information.

How could plaintiffs' bring such egregious allegations (i.e. assault, battery, violations of the Bane act) without having some witness to such acts by Mr. Blakeman let alone a witness who is a victim of such acts. This is compounded by the Plaintiffs' initial disclosures that list only one witness who has some vague unspecified knowledge about Blakeman.

Surely Mr. Blakeman, who is accused of such things, and has timely requested supporting information for these very specific allegations, should have the opportunity to know about and to depose the witnesses who allegedly support such allegations. Surely if no such persons exist then the lack of such evidence must be exposed. Failing to indicate whether such evidence exists or does not exists only serves to thwart the truth and the spirit of the Federal Rules of Civil Procedure.

Plaintiffs' objection is not a basis to avoid answering this interrogatory.

Plaintiffs' Contention

Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection. Plaintiffs are entitled to – and fully intend to – supplement their discovery responses when they "learn[] that in some material respect the disclosure or

response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally, Defendant Blakeman is in control of much of the information needed to respond to his contention interrogatories but, to date, has refused to produce any documents or videos in response to Plaintiffs' discovery requests and in violation of his obligations under Federal Rule 26(a).

1. Unduly Burdensome, Harassing, and Duplicative

Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the claims against Blakeman on the grounds that they already disclosed the names of potential witnesses in their initial and supplemental disclosures. Specifically, Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a number of whom likely witnessed the claims pertaining to Mr. Blakeman.

Mr. Blakeman already has the list of potential witnesses in his possession. Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs to be compelled to identify these witnesses again.

2. Compound

Plaintiffs objected to Mr. Blakeman's requests to identify persons with knowledge of facts supporting their contentions and facts within each person's knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits a party to 25 interrogatories propounded on any other party, including all discrete subparts.

Courts have consistently concluded that an interrogatory that asks a party to identify facts, documents, and witnesses should count as separate interrogatories. See, e.g., *Makaeff v. Trump Univ.*, LLC, 2014 WL 3490356, at *7 (S.D. Cal. July 11, 2014) (concluding the interrogatory "contains 3 discrete subparts [for facts, documents, and witnesses,] and these subparts must be multiplied by the number of RFAs that were not unqualified admissions"); *Superior Commc'ns v. Earhugger, Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S.

Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

Mr. Blakeman's attempt to subvert the rules by asking interrogatories containing multiple impermissible subparts is wholly improper and therefore Plaintiffs' objection on this ground was appropriate.

3. Information Outside Plaintiff's Knowledge

Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of witnesses to support their allegations. To the contrary, Plaintiffs have identified in their October 2, 2016, supplemental disclosures 105 witnesses who may possess knowledge of the allegations. Moreover, discovery in this matter is in its infancy. To the extent Plaintiffs identify additional witnesses who support their claims throughout the course of discovery in this matter, Plaintiffs are aware of their obligation under the Federal Rules to timely supplement their discovery and disclosures.

Plaintiffs' objection on the grounds that the interrogatories seek information outside their knowledge is an objection *only to the extent* that the information sought is outside the individually-responding Plaintiff's knowledge. Although Plaintiffs neglected to include the words "to the extent that" preceding these written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend their objections to include this wording, if the Court so orders.

4. Attorney-Client Privilege and Attorney Work Product Doctrine

Plaintiffs objected to the interrogatories *to the extent that* they invade the attorney-client privilege and/or the work product doctrine by compelling privileged communication and/or litigation strategy. These objections are worded such that either the attorney-client privilege or the attorney work product doctrine (or both) could protect the information from disclosure. The objections do not state that both privileges necessarily apply to each piece of information sought.

Furthermore, Plaintiffs do not claim that all information sought is privileged,

as evidenced by the inclusion of "to the extent that" preceding these objections. Rather, Plaintiffs have applied the work product doctrine to protect trial preparation materials that reveal attorney strategy, intended lines of proof, evaluations of strengths and weaknesses, and inferences drawn from interviews. Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947). Plaintiffs have applied the attorney-client privilege to protect confidential communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156 (9th Cir. 2010).

5. Premature Contention Interrogatories

Plaintiffs objected to Mr. Blakeman's interrogatories as premature because they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v. Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2. This objection was proper.

Contention interrogatories need not be answered until discovery is "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held that discovery was not "substantially complete" when the discovery cutoff was 4 months away and depositions of fact witnesses or defendants had not yet occurred. The court opined that "[i]f Defendants had completed their document production, depositions were under way, and the discovery cutoff date was just a month or so away, Defendants ***might*** be entitled to the information they seek. But under the circumstances here, Defendants' interrogatories are premature." *Kmiec*, at *1 (emphasis added).

Similarly, the *Folz* court found that discovery was not substantially complete and the responding party had adequate time to supplement his answers when the discovery cutoff was 8 months away. *Folz*, at *3. Even the case Mr. Blakeman cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12, 2011), held that the responding party did not need to respond to contention

interrogatories because discovery was "still in full-swing." *HTC Corp*., at *3.

In the instant lawsuit, the discovery cutoff is more than 9 months away, on August 7, 2017. None of the individual Defendants – including Mr. Blakeman – have produced any documents despite Plaintiffs' requests for production, and Plaintiff Cory Spencer only produced his first set of documents on November 4, 2016. Additionally, the parties have only taken 6 out of the 20 possible depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara, Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last month. Thus, it is clear that the parties are in the early stages of discovery. Discovery is far from being "substantially complete"; therefore, Plaintiffs need not respond to Defendant Blakeman's premature contention interrogatories.

2. IDENTIFY ALL PERSONS that have knowledge of any facts that support your contention in paragraph 7 of the Complaint that BRANT BLAKEMAN "is responsible in some manner for the Bane Act violations and public nuisance described in the Complaint" and for each such PERSON identified state all facts you contend are within that PERSON's knowledge.

Plaintiffs' Response to Interrogatory #2

Responding party objects to this interrogatory as unduly burdensome, harassing, and duplicative of information disclosed in Responding Party's Rule 26(a) disclosures and supplemental disclosures. Propounding Party may look to Responding Party's Rule 26(a) disclosures and supplemental disclosures for the information sought by this interrogatory. Moreover, Responding Party had the opportunity to depose Mr. Spencer on this topic.

Responding party further objects to this interrogatory as compound. This "interrogatory" contains multiple impermissible subparts, which Propounding Party has propounded in an effort to circumvent the numerical limitations on interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

Responding Party further objects to this interrogatory on the grounds that it

seeks information that is outside of Responding Party's knowledge.

Responding Party further objects to the extent that this interrogatory invades attorney-client privilege and/or violates the work product doctrine by compelling Responding Party to disclose privileged communications and/or litigation strategy. Responding Party will not provide any such information.

Responding Party further objects to this interrogatory as premature. Because this interrogatory seeks or necessarily relies upon a contention, and because this matter is in its early stages and pretrial discovery has only just begun, Responding Party is unable to provide a complete response at this time, nor is it required to do so. See *Kmiec v. Powerwave Techs. Inc. et al*., 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31 2014) at *1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may order that [a contention] interrogatory need not be answered until designated discovery is complete, or until a pretrial conference or some other time.").

Based on the foregoing objections, Responding Party will not respond to this interrogatory at this time.

Defendant Brant Blakeman's Contention

The Interrogatory seeks witness information pertaining to any and all persons who plaintiffs claim support a specific contention made against Brant Blakeman in his personal capacity, not as a member of a group but as an individual.

The interrogatories at issue merely seek the identification of witnesses and the identification of the facts believed to be within those witnesses knowledge purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his personal capacity.

The discovery requests defined "BRANT BLAKEMAN" as follows:

> BRANT BLAKEMAN means only Brant Blakeman in his individual capacity. This definition expressly excludes

> Brant Blakeman as an alleged member of what plaintiff alleges are the "Lunada Bay Boys." This definition expressly excludes the actions or omissions of any other PERSON other than Brant Blakeman in his individual capacity. This definition expressly excludes acts of PERSONS other than Brant Blakeman that plaintiff attributes to Brant Blakeman under a theory of Civil Conspiracy.

Failure to produce the information sought by the Interrogatory is intended only to prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely hoping to take while he is unprepared in his defense to plaintiffs' contentions against him.

The response offers only uniform boilerplate objections. Based on those objections, the response asserts that no answers to the requests will be provided. Because the objections are unmeritorious, a further, substantive response must be compelled.

1. <u>Undue Burden, Harassment, and Duplication</u>

Plaintiff contends that identifying the witnesses to the claims against Mr. Blakeman is unduly burdensome and harassing and the information can be found in the initial and supplemental disclosures. Plaintiffs in their initial disclosure identify only one witness with potential knowledge concerning Mr. Blakeman, Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry presented by this Interrogatory, then it certainly strains reason that answering it is burdensome or harassing. If there are other witnesses that allege Mr. Blakeman did some act those witnesses likewise should be identified.

This objection by plaintiff is not a justification to refuse to provide a response to the interrogatory.

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2. The Interrogatory is Compound and has Subparts

Plaintiff contends the Interrogatory is designed to circumvent the numerical limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit. The Interrogatory seeks the identification of a witness and the facts within that witnesses knowledge. FRCP Rule 33 allows the interrogatories to include "discrete subparts." Seeking the identification of witnesses and the facts within their knowledge are considered one interrogatory. (See *Chapman v. California Dept. of Educ*., 2002 WL 32854376, at *1 (N.D.Cal.,2002)). For sake of mathematical exercise, even were one to entertain the contention that the Interrogatory did not contain discrete subparts, there are only two: 12 interrogatories multiplied by two equals 24, which is within the limits of FRCP Rule 33 which allows for 25 interrogatories.

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatory.

3. The Interrogatory Seeks Information that is Outside of Responding Party's Knowledge

Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's knowledge. This objection either wholly lacks merit or there are very troubling issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

How is it that plaintiff can bring such egregious allegations without some personal knowledge of witnesses who will support the allegations (including the plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing expedition against Mr. Blakeman and they were in violation of Rule 11 when the complaint was filed? If plaintiff does not have knowledge the identity of witnesses that support allegations, the response should merely state there are none. Otherwise the witnesses should be identified.

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatories.

4. The Interrogatory Invades the Attorney Client Privilege and Attorney Work Product Doctrine

Plaintiff objects that identifying witnesses and the facts within a witnesses knowledge that supports allegations that Mr. Blakeman acted in some manner invades the attorney client privilege. There is no legal support for withholding witnesses identities based on the attorney client privilege. Personal knowledge about facts are not privileged. "[T]he protection of the privilege extends only to communications and not to facts. A fact is one thing and a communication concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct. 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatory.

5. The Interrogatory is Premature as a Contention Interrogatory

Plaintiff alleges the Interrogatory seeks a contention and due to the early state of litigation and pre-trial discovery, responding party is unable to provide a complete response and, in any event, it is required to so; citing to *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31 2014) at *1-2.; and FRCP Rule 33(a)(2).

While this is an argument that contention interrogatories can be delayed, the subject interrogatories do not fall into that context; the responding party is the party making the allegations, not the one responding to the allegations.

This action involves plaintiffs (bound by their own pleading) in their individual capacities, as well as representative capacities, alleging intentional torts, nuisance, and negligence against Mr. Blakeman. The allegations against Mr. Blakeman which each of these plaintiffs make include accusation of involvement in "predicate crimes" which include, for example, murder, mayhem, counterfeiting, rape and similar egregious crimes. Having made these allegations Plaintiffs must

have some idea of the witnesses, documents or facts to support the allegations. Plaintiffs' counsel must also have some basis else they run afoul of Rule 11.

No substantive responses are provided. It is likely that no basis exists for these allegations against Mr. Blakeman; he is entitled to know the basis before facing a deposition by ambush.

Plaintiffs' refusal is fatally flawed in any event. The cases cited are inapposite.

Kmeic was a securities litigation matter. In context, *Kmeic* reasoned that asking contention interrogatories to a shareholder plaintiff early in litigation required more time for the litigation to develop. Such is not the case with the issues involved in this litigation, where Plaintiffs each claim to represent a class of people and make specific allegations against Mr. Blakeman for which (if pled honestly) Plaintiffs alone have the supporting facts.

Folz related to contention interrogatories on defendant's affirmative defenses; something that clearly would involve significantly more discovery to develop than is the situation here where defendant is simply seeking information regarding contention's made by plaintiffs in their initial pleadings; seeking only the identification of witnesses that support plaintiffs' contentions that Mr. Blakeman committed some act. This information will allow Mr. Blakeman to depose such persons and to have a "just, speedy, and inexpensive determination [in this] action." (FRCP Rule 1.)

The identification of witnesses is important not only to Mr. Blakeman's defense but also because they would contribute meaningfully to narrow the scope of the issues in dispute, set up early settlement discussions, and expose the potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v. Technology Properties Ltd.*, 2011 WL 97787, at *2 (N.D.Cal.,2011) These factors are important in assessing whether it would be appropriate for the early use of contention interrogatories(See *In re Convergent Technologies Securities Litigation*,

108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue Rule 56 motions as there appears to be no evidence supporting the causes of action against him. It also appears that there is a lack of evidence to even support probable cause to pursue an action against him and a Rule 11 motion is likewise being considered. The discovery is thus also intended to ferret out what appears to be baseless character assassination.

In re Convergent Technologies Securities Litigation recognized the importance of the identification of witnesses as a type of contention interrogatory that is appropriate. (Id. 108 F.R.D. at 332-333). This case, often cited for the frame work it provides related to contention interrogatories, also noted that the frame work does not apply to the identity of witnesses with knowledge of the facts giving rise to the litigation or documents supporting material factual allegations. (See Id.) The Court compelled the disclosure of the identity of witnesses early in litigation. (Id. 108 F.R.D. at 332-333).

The *In re Convergent Technologies Securities Litigation* frame work to be applied to contention interrogatories has been examined in the Central District of *California in Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.,* 175 F.R.D. 646, 651 (C.D. Cal. 1997). This Court, in Cable & Computer Tech., Inc., explicated the evolution of the analysis of when contention interrogatories were appropriate.

Judge Chapman in *Cable & Computer Tech., Inc.* first noted the purpose of the Federal Rules of Civil Procedure.

Rule 1 of the Federal Rules of Civil Procedure directs that the rules "shall be construed to secure the just, speedy, and inexpensive determination of every action." "There probably is no provision in the federal rules that is more important than this mandate. It reflects the spirit in which the rules were conceived and written, and in which they should be, and by and large have been, interpreted..... The Supreme Court of the United States has stated that these rules 'are to be

accorded a broad and liberal treatment'." *Trevino v. Celanese Corp.*, 701 F.2d 397, 405 (5th Cir.1983) (citing *Hickman v. Taylor*, 329 U.S. 495, 507, 67 S.Ct. 385, 391, 91 L.Ed. 451 (1947) and *Schlagenhauf v. Holder*, 379 U.S. 104, 114–15, 85 S.Ct. 234, 240, 13 L.Ed.2d 152 (1964)). (*Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 650 (C.D. Cal. 1997).)

Judge Chapman allayed concerns about early use of contention interrogatories and recognized that contention interrogatories are allowed under the Federal Rules of Civil Procedure. Any concern about limiting proof based on limited answers to interrogatories is not well-founded because such answers may be withdrawn or amended, and parties have an ongoing obligation to "seasonably amend" answers throughout the litigation. (See Id., 175 F.D.R. at 650-651.)

Judge Chapman then noted that Judge Brazil, the author of *In re Convergent Technologies Securities Litigation*, had recently even acknowledged the importance of early use of contention interrogatories in certain matters:

In Convergent Technologies, Judge Wayne D. Brazil, in a very thoughtful opinion, held that the 1983 amendments to Fed.R.Civ.P. 26(b) compelled his conclusion that the "wisest course is not to preclude entirely the early use of contention interrogatories, but to place a burden of justification on the party who seeks answers to these kinds of questions before substantial documentary or testimonial discovery has been completed.... [T]he propounding party must present specific, plausible grounds for believing that securing early answers to its contention questions will materially advance the goals of the Federal Rules of Civil Procedure." 108 F.R.D. at 338–39. More recently, however, Judge Brazil has modified his position, noting that contention interrogatories may in certain cases be the most reliable and cost-effective discovery device, which would be less burdensome than depositions at which contention questions are propounded. See *McCormick–Morgan, Inc. v. Teledyne Industries, Inc.*, 134 F.R.D. 275, 287 (N.D.Cal.1991) (holding appropriately framed and timed contention interrogatories

rather than depositions in patent infringement action was most appropriate vehicle for establishing infringers' contentions). *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 651–52 (C.D. Cal. 1997).

In fact Judge Chapman, instead of placing the burden on the party propounding the request in justifying the need for early discovery on such issues, found placing the burden on the party opposing responding to the request, as is done normally, was more appropriate. (See Id., 175 F.R.D. at 652.)

In this case, though, the requests made by Blakeman are appropriate no matter what analysis is applied to his alleged "contention interrogatories." The requests seek to identify witnesses. If Blakeman has the burden to show this is necessary he easily meets it as there is no way he can potentially defend his case, bring motions under Rule 56, or bring motions under Rule 11 without knowing the witnesses who supposedly support the allegations he is in a gang, that he commits intentional torts of criminal nature, or that he is engaged in some act of negligence. Alternatively, plaintiffs cannot show that they could even meet their burden in resisting disclosure of this information.

How could plaintiffs' bring such egregious allegations (i.e. assault, battery, violations of the Bane act) without having some witness to such acts by Mr. Blakeman let alone a witness who is a victim of such acts. This is compounded by the Plaintiffs' initial disclosures that list only one witness who has some vague unspecified knowledge about Blakeman.

Surely Mr. Blakeman, who is accused of such things, and has timely requested supporting information for these very specific allegations, should have the opportunity to know about and to depose the witnesses who allegedly support such allegations. Surely if no such persons exist then the lack of such evidence must be exposed. Failing to indicate whether such evidence exists or does not exists only serves to thwart the truth and the spirit of the Federal Rules of Civil Procedure.

Plaintiffs' objection is not a basis to avoid answering this interrogatory.

Plaintiffs' Contention

Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection. Plaintiffs are entitled to – and fully intend to – supplement their discovery responses when they "learn[] that in some material respect the disclosure or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally, Defendant Blakeman is in control of much of the information needed to respond to his contention interrogatories but, to date, has refused to produce any documents or videos in response to Plaintiffs' discovery requests and in violation of his obligations under Federal Rule 26(a).

1. Unduly Burdensome, Harassing, and Duplicative

Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the claims against Blakeman on the grounds that they already disclosed the names of potential witnesses in their initial and supplemental disclosures. Specifically, Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a number of whom likely witnessed the claims pertaining to Mr. Blakeman.

Mr. Blakeman already has the list of potential witnesses in his possession. Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs to be compelled to identify these witnesses again.

2. Compound

Plaintiffs objected to Mr. Blakeman's requests to identify persons with knowledge of facts supporting their contentions and facts within each person's knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits a party to 25 interrogatories propounded on any other party, including all discrete subparts.

Courts have consistently concluded that an interrogatory that asks a party to identify facts, documents, and witnesses should count as separate interrogatories.

See, e.g., *Makaeff v. Trump Univ.*, LLC, 2014 WL 3490356, at *7 (S.D. Cal. July 11, 2014) (concluding the interrogatory "contains 3 discrete subparts [for facts, documents, and witnesses,] and these subparts must be multiplied by the number of RFAs that were not unqualified admissions"); *Superior Commc'ns v. Earhugger, Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S. Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

Mr. Blakeman's attempt to subvert the rules by asking interrogatories containing multiple impermissible subparts is wholly improper and therefore Plaintiffs' objection on this ground was appropriate.

3. Information Outside Plaintiff's Knowledge

Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of witnesses to support their allegations. To the contrary, Plaintiffs have identified in their October 2, 2016, supplemental disclosures 105 witnesses who may possess knowledge of the allegations. Moreover, discovery in this matter is in its infancy. To the extent Plaintiffs identify additional witnesses who support their claims throughout the course of discovery in this matter, Plaintiffs are aware of their obligation under the Federal Rules to timely supplement their discovery and disclosures.

Plaintiffs' objection on the grounds that the interrogatories seek information outside their knowledge is an objection *only to the extent* that the information sought is outside the individually-responding Plaintiff's knowledge. Although Plaintiffs neglected to include the words "to the extent that" preceding these written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend their objections to include this wording, if the Court so orders.

4. Attorney-Client Privilege and Attorney Work Product Doctrine

Plaintiffs objected to the interrogatories *to the extent that* they invade the

attorney-client privilege and/or the work product doctrine by compelling privileged communication and/or litigation strategy. These objections are worded such that either the attorney-client privilege or the attorney work product doctrine (or both) could protect the information from disclosure. The objections do not state that both privileges necessarily apply to each piece of information sought.

Furthermore, Plaintiffs do not claim that all information sought is privileged, as evidenced by the inclusion of "to the extent that" preceding these objections. Rather, Plaintiffs have applied the work product doctrine to protect trial preparation materials that reveal attorney strategy, intended lines of proof, evaluations of strengths and weaknesses, and inferences drawn from interviews. Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947). Plaintiffs have applied the attorney-client privilege to protect confidential communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156 (9th Cir. 2010).

5. Premature Contention Interrogatories

Plaintiffs objected to Mr. Blakeman's interrogatories as premature because they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v. Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2. This objection was proper.

Contention interrogatories need not be answered until discovery is "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held that discovery was not "substantially complete" when the discovery cutoff was 4 months away and depositions of fact witnesses or defendants had not yet occurred. The court opined that "[i]f Defendants had completed their document production, depositions were under way, and the discovery cutoff date was just a month or so away, Defendants ***might*** be entitled to the information they seek. But under the circumstances here, Defendants' interrogatories are premature." *Kmiec*, at *1

(emphasis added).

Similarly, the *Folz* court found that discovery was not substantially complete and the responding party had adequate time to supplement his answers when the discovery cutoff was 8 months away. *Folz*, at *3. Even the case Mr. Blakeman cited, *HTC Corp. v. Tech. Properties Ltd*., 2011 WL 97787 (N.D. Cal. Jan. 12, 2011), held that the responding party did not need to respond to contention interrogatories because discovery was "still in full-swing." *HTC Corp*., at *3.

In the instant lawsuit, the discovery cutoff is more than 9 months away, on August 7, 2017. None of the individual Defendants – including Mr. Blakeman – have produced any documents despite Plaintiffs' requests for production, and Plaintiff Cory Spencer only produced his first set of documents on November 4, 2016. Additionally, the parties have only taken 6 out of the 20 possible depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara, Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last month. Thus, it is clear that the parties are in the early stages of discovery. Discovery is far from being "substantially complete"; therefore, Plaintiffs need not respond to Defendant Blakeman's premature contention interrogatories.

3. IDENTIFY ALL PERSONS that have knowledge of any facts that support your contention in paragraph 18 of the Complaint that BRANT BLAKEMAN "sell[s] market[s] and use[s] illegal controlled substances from the Lunada Bay Bluffs and the Rock Fort" and for each such PERSON identified state all facts you contend are within that PERSON's knowledge.

Plaintiffs' Response to Interrogatory #3

Responding party objects to this interrogatory as unduly burdensome, harassing, and duplicative of information disclosed in Responding Party's Rule 26(a) disclosures and supplemental disclosures. Propounding Party may look to Responding Party's Rule 26(a) disclosures and supplemental disclosures for the information sought by this interrogatory. Moreover, Responding Party had the

opportunity to depose Mr. Spencer on this topic.

Responding party further objects to this interrogatory as compound. This "interrogatory" contains multiple impermissible subparts, which Propounding Party has propounded in an effort to circumvent the numerical limitations on interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

Responding Party further objects to this interrogatory on the grounds that it seeks information that is outside of Responding Party's knowledge.

Responding Party further objects to the extent that this interrogatory invades attorney-client privilege and/or violates the work product doctrine by compelling Responding Party to disclose privileged communications and/or litigation strategy. Responding Party will not provide any such information.

Responding Party further objects to this interrogatory as premature. Because this interrogatory seeks or necessarily relies upon a contention, and because this matter is in its early stages and pretrial discovery has only just begun, Responding Party is unable to provide a complete response at this time, nor is it required to do so. See *Kmiec v. Powerwave Techs. Inc. et al*., 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31 2014) at *1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may order that [a contention] interrogatory need not be answered until designated discovery is complete, or until a pretrial conference or some other time.").

Based on the foregoing objections, Responding Party will not respond to this interrogatory at this time.

Defendant Brant Blakeman's Contention

The Interrogatory seeks witness information pertaining to any and all persons who plaintiffs claim support a specific contention made against Brant Blakeman in his personal capacity, not as a member of a group but as an individual.

The interrogatories at issue merely seek the identification of witnesses and

the identification of the facts believed to be within those witnesses knowledge purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his personal capacity.

The discovery requests defined "BRANT BLAKEMAN" as follows:

> BRANT BLAKEMAN means only Brant Blakeman in his individual capacity. This definition expressly excludes Brant Blakeman as an alleged member of what plaintiff alleges are the "Lunada Bay Boys." This definition expressly excludes the actions or omissions of any other PERSON other than Brant Blakeman in his individual capacity. This definition expressly excludes acts of PERSONS other than Brant Blakeman that plaintiff attributes to Brant Blakeman under a theory of Civil Conspiracy.

Failure to produce the information sought by the Interrogatory is intended only to prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely hoping to take while he is unprepared in his defense to plaintiffs' contentions against him.

The response offers only uniform boilerplate objections. Based on those objections, the response asserts that no answers to the requests will be provided. Because the objections are unmeritorious, a further, substantive response must be compelled.

1. <u>Undue Burden, Harassment, and Duplication</u>

Plaintiff contends that identifying the witnesses to the claims against Mr. Blakeman is unduly burdensome and harassing and the information can be found in the initial and supplemental disclosures. Plaintiffs in their initial disclosure identify only one witness with potential knowledge concerning Mr. Blakeman, Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry presented by this Interrogatory, then it certainly strains reason that answering it is burdensome or harassing. If there are other witnesses that allege Mr. Blakeman

did some act those witnesses likewise should be identified.

This objection by plaintiff is not a justification to refuse to provide a response to the interrogatory.

2. The Interrogatory is Compound and has Subparts

Plaintiff contends the Interrogatory is designed to circumvent the numerical limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit. The Interrogatory seeks the identification of a witness and the facts within that witnesses knowledge. FRCP Rule 33 allows the interrogatories to include "discrete subparts." Seeking the identification of witnesses and the facts within their knowledge are considered one interrogatory. (See *Chapman v. California Dept. of Educ.*, 2002 WL 32854376, at *1 (N.D.Cal.,2002)). For sake of mathematical exercise, even were one to entertain the contention that the Interrogatory did not contain discrete subparts, there are only two: 12 interrogatories multiplied by two equals 24, which is within the limits of FRCP Rule 33 which allows for 25 interrogatories.

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Otherwise the witnesses should be identified.

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While this is an argument that contention interrogatories can be delayed, the subject interrogatories do not fall into that context; the responding party is the party making the allegations, not the one responding to the allegations.

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Blakeman which each of these plaintiffs make include accusation of involvement in "predicate crimes" which include, for example, murder, mayhem, counterfeiting, rape and similar egregious crimes. Having made these allegations Plaintiffs must have some idea of the witnesses, documents or facts to support the allegations. Plaintiffs' counsel must also have some basis else they run afoul of Rule 11.

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The identification of witnesses is important not only to Mr. Blakeman's defense but also because they would contribute meaningfully to narrow the scope of the issues in dispute, set up early settlement discussions, and expose the potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v.*

Technology Properties Ltd., 2011 WL 97787, at *2 (N.D.Cal.,2011) These factors are important in assessing whether it would be appropriate for the early use of contention interrogatories(See *In re Convergent Technologies Securities Litigation*, 108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue Rule 56 motions as there appears to be no evidence supporting the causes of action against him. It also appears that there is a lack of evidence to even support probable cause to pursue an action against him and a Rule 11 motion is likewise being considered. The discovery is thus also intended to ferret out what appears to be baseless character assassination.

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Rule 1 of the Federal Rules of Civil Procedure directs that the rules "shall be construed to secure the just, speedy, and inexpensive determination of every action." "There probably is no provision in the federal rules that is more important

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Judge Chapman then noted that Judge Brazil, the author of *In re Convergent Technologies Securities Litigation*, had recently even acknowledged the importance of early use of contention interrogatories in certain matters:

> In *Convergent Technologies*, Judge Wayne D. Brazil, in a very thoughtful opinion, held that the 1983 amendments to Fed.R.Civ.P. 26(b) compelled his conclusion that the "wisest course is not to preclude entirely the early use of contention interrogatories, but to place a burden of justification on the party who seeks answers to these kinds of questions before substantial documentary or testimonial discovery has been completed.... [T]he propounding party must present specific, plausible grounds for believing that securing early answers to its contention questions will materially advance the goals of the Federal Rules of Civil Procedure." 108 F.R.D. at 338–39. More recently, however, Judge Brazil has modified his position, noting that contention interrogatories may in certain cases be the most reliable and cost-effective discovery device, which would be less burdensome than depositions at which

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In fact Judge Chapman, instead of placing the burden on the party propounding the request in justifying the need for early discovery on such issues, found placing the burden on the party opposing responding to the request, as is done normally, was more appropriate. (See Id., 175 F.R.D. at 652.)

In this case, though, the requests made by Blakeman are appropriate no matter what analysis is applied to his alleged "contention interrogatories." The requests seek to identify witnesses. If Blakeman has the burden to show this is necessary he easily meets it as there is no way he can potentially defend his case, bring motions under Rule 56, or bring motions under Rule 11 without knowing the witnesses who supposedly support the allegations he is in a gang, that he commits intentional torts of criminal nature, or that he is engaged in some act of negligence. Alternatively, plaintiffs cannot show that they could even meet their burden in resisting disclosure of this information.

How could plaintiffs' bring such egregious allegations (i.e. assault, battery, violations of the Bane act) without having some witness to such acts by Mr. Blakeman let alone a witness who is a victim of such acts. This is compounded by the Plaintiffs' initial disclosures that list only one witness who has some vague unspecified knowledge about Blakeman.

Surely Mr. Blakeman, who is accused of such things, and has timely requested supporting information for these very specific allegations, should have the opportunity to know about and to depose the witnesses who allegedly support

such allegations. Surely if no such persons exist then the lack of such evidence must be exposed. Failing to indicate whether such evidence exists or does not exists only serves to thwart the truth and the spirit of the Federal Rules of Civil Procedure.

Plaintiffs' objection is not a basis to avoid answering this interrogatory.

Plaintiffs' Contention

Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection. Plaintiffs are entitled to – and fully intend to – supplement their discovery responses when they "learn[] that in some material respect the disclosure or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally, Defendant Blakeman is in control of much of the information needed to respond to his contention interrogatories but, to date, has refused to produce any documents or videos in response to Plaintiffs' discovery requests and in violation of his obligations under Federal Rule 26(a).

1. Unduly Burdensome, Harassing, and Duplicative

Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the claims against Blakeman on the grounds that they already disclosed the names of potential witnesses in their initial and supplemental disclosures. Specifically, Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a number of whom likely witnessed the claims pertaining to Mr. Blakeman.

Mr. Blakeman already has the list of potential witnesses in his possession. Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs to be compelled to identify these witnesses again.

2. Compound

Plaintiffs objected to Mr. Blakeman's requests to identify persons with knowledge of facts supporting their contentions and facts within each person's knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits

a party to 25 interrogatories propounded on any other party, including all discrete subparts.

Courts have consistently concluded that an interrogatory that asks a party to identify facts, documents, and witnesses should count as separate interrogatories. See, e.g., *Makaeff v. Trump Univ.*, LLC, 2014 WL 3490356, at *7 (S.D. Cal. July 11, 2014) (concluding the interrogatory "contains 3 discrete subparts [for facts, documents, and witnesses,] and these subparts must be multiplied by the number of RFAs that were not unqualified admissions"); *Superior Commc'ns v. Earhugger, Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S. Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

Mr. Blakeman's attempt to subvert the rules by asking interrogatories containing multiple impermissible subparts is wholly improper and therefore Plaintiffs' objection on this ground was appropriate.

3. Information Outside Plaintiff's Knowledge

Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of witnesses to support their allegations. To the contrary, Plaintiffs have identified in their October 2, 2016, supplemental disclosures 105 witnesses who may possess knowledge of the allegations. Moreover, discovery in this matter is in its infancy. To the extent Plaintiffs identify additional witnesses who support their claims throughout the course of discovery in this matter, Plaintiffs are aware of their obligation under the Federal Rules to timely supplement their discovery and disclosures.

Plaintiffs' objection on the grounds that the interrogatories seek information outside their knowledge is an objection *only to the extent* that the information sought is outside the individually-responding Plaintiff's knowledge. Although Plaintiffs neglected to include the words "to the extent that" preceding these

written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend their objections to include this wording, if the Court so orders.

4. Attorney-Client Privilege and Attorney Work Product Doctrine

Plaintiffs objected to the interrogatories *to the extent that* they invade the attorney-client privilege and/or the work product doctrine by compelling privileged communication and/or litigation strategy. These objections are worded such that either the attorney-client privilege or the attorney work product doctrine (or both) could protect the information from disclosure. The objections do not state that both privileges necessarily apply to each piece of information sought.

Furthermore, Plaintiffs do not claim that all information sought is privileged, as evidenced by the inclusion of "to the extent that" preceding these objections. Rather, Plaintiffs have applied the work product doctrine to protect trial preparation materials that reveal attorney strategy, intended lines of proof, evaluations of strengths and weaknesses, and inferences drawn from interviews. Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947). Plaintiffs have applied the attorney-client privilege to protect confidential communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156 (9th Cir. 2010).

5. Premature Contention Interrogatories

Plaintiffs objected to Mr. Blakeman's interrogatories as premature because they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v. Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2. This objection was proper.

Contention interrogatories need not be answered until discovery is "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held that discovery was not "substantially complete" when the discovery cutoff was 4 months away and depositions of fact witnesses or defendants had not yet occurred.

The court opined that "[i]f Defendants had completed their document production, depositions were under way, and the discovery cutoff date was just a month or so away, Defendants ***might*** be entitled to the information they seek. But under the circumstances here, Defendants' interrogatories are premature." *Kmiec*, at *1 (emphasis added).

Similarly, the *Folz* court found that discovery was not substantially complete and the responding party had adequate time to supplement his answers when the discovery cutoff was 8 months away. *Folz*, at *3. Even the case Mr. Blakeman cited, *HTC Corp. v. Tech. Properties Ltd*., 2011 WL 97787 (N.D. Cal. Jan. 12, 2011), held that the responding party did not need to respond to contention interrogatories because discovery was "still in full-swing." *HTC Corp*., at *3.

In the instant lawsuit, the discovery cutoff is more than 9 months away, on August 7, 2017. None of the individual Defendants – including Mr. Blakeman – have produced any documents despite Plaintiffs' requests for production, and Plaintiff Cory Spencer only produced his first set of documents on November 4, 2016. Additionally, the parties have only taken 6 out of the 20 possible depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara, Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last month. Thus, it is clear that the parties are in the early stages of discovery. Discovery is far from being "substantially complete"; therefore, Plaintiffs need not respond to Defendant Blakeman's premature contention interrogatories.

4. IDENTIFY ALL PERSONS that have knowledge of any facts that support your contention in paragraph 18 of the Complaint that BLAKE BRANTMAN "impede[d] boat traffic" at any time, and for each such PERSON identified state all facts you contend are within that PERSON's knowledge.

Plaintiffs' Response to Interrogatory #4

Responding party objects to this interrogatory as unduly burdensome, harassing, and duplicative of information disclosed in Responding Party's Rule

26(a) disclosures and supplemental disclosures. Propounding Party may look to Responding Party's Rule 26(a) disclosures and supplemental disclosures for the information sought by this interrogatory. Moreover, Responding Party had the opportunity to depose Mr. Spencer on this topic.

Responding party further objects to this interrogatory as compound. This "interrogatory" contains multiple impermissible subparts, which Propounding Party has propounded in an effort to circumvent the numerical limitations on interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

Responding Party further objects to this interrogatory on the grounds that it seeks information that is outside of Responding Party's knowledge.

Responding Party further objects to the extent that this interrogatory invades attorney-client privilege and/or violates the work product doctrine by compelling Responding Party to disclose privileged communications and/or litigation strategy. Responding Party will not provide any such information.

Responding Party further objects to this interrogatory as premature. Because this interrogatory seeks or necessarily relies upon a contention, and because this matter is in its early stages and pretrial discovery has only just begun, Responding Party is unable to provide a complete response at this time, nor is it required to do so. See *Kmiec v. Powerwave Techs. Inc. et al*., 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31 2014) at *1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may order that [a contention] interrogatory need not be answered until designated discovery is complete, or until a pretrial conference or some other time.").

Based on the foregoing objections, Responding Party will not respond to this interrogatory at this time.

Defendant Brant Blakeman's Contention

The Interrogatory seeks witness information pertaining to any and all persons who plaintiffs claim support a specific contention made against Brant

Blakeman in his personal capacity, not as a member of a group but as an individual.

The interrogatories at issue merely seek the identification of witnesses and the identification of the facts believed to be within those witnesses knowledge purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his personal capacity.

The discovery requests defined "BRANT BLAKEMAN" as follows:

> BRANT BLAKEMAN means only Brant Blakeman in his individual capacity. This definition expressly excludes Brant Blakeman as an alleged member of what plaintiff alleges are the "Lunada Bay Boys." This definition expressly excludes the actions or omissions of any other PERSON other than Brant Blakeman in his individual capacity. This definition expressly excludes acts of PERSONS other than Brant Blakeman that plaintiff attributes to Brant Blakeman under a theory of Civil Conspiracy.

Failure to produce the information sought by the Interrogatory is intended only to prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely hoping to take while he is unprepared in his defense to plaintiffs' contentions against him.

The response offers only uniform boilerplate objections. Based on those objections, the response asserts that no answers to the requests will be provided. Because the objections are unmeritorious, a further, substantive response must be compelled.

1. <u>Undue Burden, Harassment, and Duplication</u>

Plaintiff contends that identifying the witnesses to the claims against Mr. Blakeman is unduly burdensome and harassing and the information can be found in the initial and supplemental disclosures. Plaintiffs in their initial disclosure

identify only one witness with potential knowledge concerning Mr. Blakeman, Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry presented by this Interrogatory, then it certainly strains reason that answering it is burdensome or harassing. If there are other witnesses that allege Mr. Blakeman did some act those witnesses likewise should be identified.

This objection by plaintiff is not a justification to refuse to provide a response to the interrogatory.

2. The Interrogatory is Compound and has Subparts

Plaintiff contends the Interrogatory is designed to circumvent the numerical limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit. The Interrogatory seeks the identification of a witness and the facts within that witnesses knowledge. FRCP Rule 33 allows the interrogatories to include "discrete subparts." Seeking the identification of witnesses and the facts within their knowledge are considered one interrogatory. (See *Chapman v. California Dept. of Educ*., 2002 WL 32854376, at *1 (N.D.Cal.,2002)). For sake of mathematical exercise, even were one to entertain the contention that the Interrogatory did not contain discrete subparts, there are only two: 12 interrogatories multiplied by two equals 24, which is within the limits of FRCP Rule 33 which allows for 25 interrogatories.

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatory.

3. The Interrogatory Seeks Information that is Outside of Responding Party's Knowledge

Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's knowledge. This objection either wholly lacks merit or there are very troubling issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

How is it that plaintiff can bring such egregious allegations without some personal knowledge of witnesses who will support the allegations (including the

plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing expedition against Mr. Blakeman and they were in violation of Rule 11 when the complaint was filed? If plaintiff does not have knowledge the identity of witnesses that support allegations, the response should merely state there are none. Otherwise the witnesses should be identified.

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatories.

4. The Interrogatory Invades the Attorney Client Privilege and Attorney Work Product Doctrine

Plaintiff objects that identifying witnesses and the facts within a witnesses knowledge that supports allegations that Mr. Blakeman acted in some manner invades the attorney client privilege. There is no legal support for withholding witnesses identities based on the attorney client privilege. Personal knowledge about facts are not privileged. "[T]he protection of the privilege extends only to communications and not to facts. A fact is one thing and a communication concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct. 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatory.

5. The Interrogatory is Premature as a Contention Interrogatory

Plaintiff alleges the Interrogatory seeks a contention and due to the early state of litigation and pre-trial discovery, responding party is unable to provide a complete response and, in any event, it is required to so; citing to *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31 2014) at *1-2.; and FRCP Rule 33(a)(2).

While this is an argument that contention interrogatories can be delayed, the subject interrogatories do not fall into that context; the responding party is the

party making the allegations, not the one responding to the allegations.

This action involves plaintiffs (bound by their own pleading) in their individual capacities, as well as representative capacities, alleging intentional torts, nuisance, and negligence against Mr. Blakeman. The allegations against Mr. Blakeman which each of these plaintiffs make include accusation of involvement in "predicate crimes" which include, for example, murder, mayhem, counterfeiting, rape and similar egregious crimes. Having made these allegations Plaintiffs must have some idea of the witnesses, documents or facts to support the allegations. Plaintiffs' counsel must also have some basis else they run afoul of Rule 11.

No substantive responses are provided. It is likely that no basis exists for these allegations against Mr. Blakeman; he is entitled to know the basis before facing a deposition by ambush.

Plaintiffs' refusal is fatally flawed in any event. The cases cited are inapposite.

Kmeic was a securities litigation matter. In context, *Kmeic* reasoned that asking contention interrogatories to a shareholder plaintiff early in litigation required more time for the litigation to develop. Such is not the case with the issues involved in this litigation, where Plaintiffs each claim to represent a class of people and make specific allegations against Mr. Blakeman for which (if pled honestly) Plaintiffs alone have the supporting facts.

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Furthermore, Plaintiffs do not claim that all information sought is privileged, as evidenced by the inclusion of "to the extent that" preceding these objections. Rather, Plaintiffs have applied the work product doctrine to protect trial preparation materials that reveal attorney strategy, intended lines of proof, evaluations of strengths and weaknesses, and inferences drawn from interviews. Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947). Plaintiffs have applied the attorney-client privilege to protect confidential communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156 (9th Cir. 2010).

5. Premature Contention Interrogatories

Plaintiffs objected to Mr. Blakeman's interrogatories as premature because they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v. Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2. This objection was proper.

Contention interrogatories need not be answered until discovery is "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held that discovery was not "substantially complete" when the discovery cutoff was 4 months away and depositions of fact witnesses or defendants had not yet occurred. The court opined that "[i]f Defendants had completed their document production, depositions were under way, and the discovery cutoff date was just a month or so away, Defendants ***might*** be entitled to the information they seek. But under the circumstances here, Defendants' interrogatories are premature." *Kmiec*, at *1 (emphasis added).

Similarly, the *Folz* court found that discovery was not substantially complete and the responding party had adequate time to supplement his answers when the discovery cutoff was 8 months away. *Folz*, at *3. Even the case Mr. Blakeman cited, *HTC Corp. v. Tech. Properties Ltd*., 2011 WL 97787 (N.D. Cal. Jan. 12, 2011), held that the responding party did not need to respond to contention interrogatories because discovery was "still in full-swing." *HTC Corp*., at *3.

In the instant lawsuit, the discovery cutoff is more than 9 months away, on August 7, 2017. None of the individual Defendants – including Mr. Blakeman – have produced any documents despite Plaintiffs' requests for production, and Plaintiff Cory Spencer only produced his first set of documents on November 4, 2016. Additionally, the parties have only taken 6 out of the 20 possible depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara, Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last month. Thus, it is clear that the parties are in the early stages of discovery. Discovery is far from being "substantially complete"; therefore, Plaintiffs need not respond to Defendant Blakeman's premature contention interrogatories.

5. IDENTIFY ALL PERSONS that have knowledge of any facts that support your contention in paragraph 18 of the Complaint that BLAKE BRANTMAN "dangerously disregard[ed] surfing rules" at any time, and for each

such PERSON identified state all facts you contend are within that PERSON's knowledge.

Plaintiffs' Response to Interrogatory #5

Responding party objects to this interrogatory as unduly burdensome, harassing, and duplicative of information disclosed in Responding Party's Rule 26(a) disclosures and supplemental disclosures. Propounding Party may look to Responding Party's Rule 26(a) disclosures and supplemental disclosures for the information sought by this interrogatory. Moreover, Responding Party had the opportunity to depose Mr. Spencer on this topic.

Responding party further objects to this interrogatory as compound. This "interrogatory" contains multiple impermissible subparts, which Propounding Party has propounded in an effort to circumvent the numerical limitations on interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

Responding Party further objects to this interrogatory on the grounds that it seeks information that is outside of Responding Party's knowledge.

Responding Party further objects to the extent that this interrogatory invades attorney-client privilege and/or violates the work product doctrine by compelling Responding Party to disclose privileged communications and/or litigation strategy. Responding Party will not provide any such information.

Responding Party further objects to this interrogatory as premature. Because this interrogatory seeks or necessarily relies upon a contention, and because this matter is in its early stages and pretrial discovery has only just begun, Responding Party is unable to provide a complete response at this time, nor is it required to do so. See *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31 2014) at *1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may order that [a contention] interrogatory need not be answered until designated discovery is complete, or until a pretrial conference or some other time.").

Based on the foregoing objections, Responding Party will not respond to this interrogatory at this time.

Defendant Brant Blakeman's Contention

The Interrogatory seeks witness information pertaining to any and all persons who plaintiffs claim support a specific contention made against Brant Blakeman in his personal capacity, not as a member of a group but as an individual.

The interrogatories at issue merely seek the identification of witnesses and the identification of the facts believed to be within those witnesses knowledge purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his personal capacity.

The discovery requests defined "BRANT BLAKEMAN" as follows:

> BRANT BLAKEMAN means only Brant Blakeman in his individual capacity. This definition expressly excludes Brant Blakeman as an alleged member of what plaintiff alleges are the "Lunada Bay Boys." This definition expressly excludes the actions or omissions of any other PERSON other than Brant Blakeman in his individual capacity. This definition expressly excludes acts of PERSONS other than Brant Blakeman that plaintiff attributes to Brant Blakeman under a theory of Civil Conspiracy.

Failure to produce the information sought by the Interrogatory is intended only to prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely hoping to take while he is unprepared in his defense to plaintiffs' contentions against him.

The response offers only uniform boilerplate objections. Based on those objections, the response asserts that no answers to the requests will be provided. Because the objections are unmeritorious, a further, substantive response must be

compelled.

1. Undue Burden, Harassment, and Duplication

Plaintiff contends that identifying the witnesses to the claims against Mr. Blakeman is unduly burdensome and harassing and the information can be found in the initial and supplemental disclosures. Plaintiffs in their initial disclosure identify only one witness with potential knowledge concerning Mr. Blakeman, Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry presented by this Interrogatory, then it certainly strains reason that answering it is burdensome or harassing. If there are other witnesses that allege Mr. Blakeman did some act those witnesses likewise should be identified.

This objection by plaintiff is not a justification to refuse to provide a response to the interrogatory.

2. The Interrogatory is Compound and has Subparts

Plaintiff contends the Interrogatory is designed to circumvent the numerical limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit. The Interrogatory seeks the identification of a witness and the facts within that witnesses knowledge. FRCP Rule 33 allows the interrogatories to include "discrete subparts." Seeking the identification of witnesses and the facts within their knowledge are considered one interrogatory. (See *Chapman v. California Dept. of Educ.*, 2002 WL 32854376, at *1 (N.D.Cal.,2002)). For sake of mathematical exercise, even were one to entertain the contention that the Interrogatory did not contain discrete subparts, there are only two: 12 interrogatories multiplied by two equals 24, which is within the limits of FRCP Rule 33 which allows for 25 interrogatories.

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatory.

3. The Interrogatory Seeks Information that is Outside of Responding Party's Knowledge

Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's knowledge. This objection either wholly lacks merit or there are very troubling issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

How is it that plaintiff can bring such egregious allegations without some personal knowledge of witnesses who will support the allegations (including the plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing expedition against Mr. Blakeman and they were in violation of Rule 11 when the complaint was filed? If plaintiff does not have knowledge the identity of witnesses that support allegations, the response should merely state there are none. Otherwise the witnesses should be identified.

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatories.

4. The Interrogatory Invades the Attorney Client Privilege and Attorney Work Product Doctrine

Plaintiff objects that identifying witnesses and the facts within a witnesses knowledge that supports allegations that Mr. Blakeman acted in some manner invades the attorney client privilege. There is no legal support for withholding witnesses identities based on the attorney client privilege. Personal knowledge about facts are not privileged. "[T]he protection of the privilege extends only to communications and not to facts. A fact is one thing and a communication concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct. 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatory.

5. The Interrogatory is Premature as a Contention Interrogatory

Plaintiff alleges the Interrogatory seeks a contention and due to the early state of litigation and pre-trial discovery, responding party is unable to provide a complete response and, in any event, it is required to so; citing to *Kmiec* v.

Powerwave Techs. Inc. et al., 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31 2014) at *1-2.; and FRCP Rule 33(a)(2).

While this is an argument that contention interrogatories can be delayed, the subject interrogatories do not fall into that context; the responding party is the party making the allegations, not the one responding to the allegations.

This action involves plaintiffs (bound by their own pleading) in their individual capacities, as well as representative capacities, alleging intentional torts, nuisance, and negligence against Mr. Blakeman. The allegations against Mr. Blakeman which each of these plaintiffs make include accusation of involvement in "predicate crimes" which include, for example, murder, mayhem, counterfeiting, rape and similar egregious crimes. Having made these allegations Plaintiffs must have some idea of the witnesses, documents or facts to support the allegations. Plaintiffs' counsel must also have some basis else they run afoul of Rule 11.

No substantive responses are provided. It is likely that no basis exists for these allegations against Mr. Blakeman; he is entitled to know the basis before facing a deposition by ambush.

Plaintiffs' refusal is fatally flawed in any event. The cases cited are inapposite.

Kmeic was a securities litigation matter. In context, *Kmeic* reasoned that asking contention interrogatories to a shareholder plaintiff early in litigation required more time for the litigation to develop. Such is not the case with the issues involved in this litigation, where Plaintiffs each claim to represent a class of people and make specific allegations against Mr. Blakeman for which (if pled honestly) Plaintiffs alone have the supporting facts.

Folz related to contention interrogatories on defendant's affirmative defenses; something that clearly would involve significantly more discovery to develop than is the situation here where defendant is simply seeking information

regarding contention's made by plaintiffs in their initial pleadings; seeking only the identification of witnesses that support plaintiffs' contentions that Mr. Blakeman committed some act. This information will allow Mr. Blakeman to depose such persons and to have a "just, speedy, and inexpensive determination [in this] action." (FRCP Rule 1.)

The identification of witnesses is important not only to Mr. Blakeman's defense but also because they would contribute meaningfully to narrow the scope of the issues in dispute, set up early settlement discussions, and expose the potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v. Technology Properties Ltd.*, 2011 WL 97787, at *2 (N.D.Cal.,2011) These factors are important in assessing whether it would be appropriate for the early use of contention interrogatories(See *In re Convergent Technologies Securities Litigation*, 108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue Rule 56 motions as there appears to be no evidence supporting the causes of action against him. It also appears that there is a lack of evidence to even support probable cause to pursue an action against him and a Rule 11 motion is likewise being considered. The discovery is thus also intended to ferret out what appears to be baseless character assassination.

In re Convergent Technologies Securities Litigation recognized the importance of the identification of witnesses as a type of contention interrogatory that is appropriate. (Id. 108 F.R.D. at 332-333). This case, often cited for the frame work it provides related to contention interrogatories, also noted that the frame work does not apply to the identity of witnesses with knowledge of the facts giving rise to the litigation or documents supporting material factual allegations. (See Id.) The Court compelled the disclosure of the identity of witnesses early in litigation. (Id. 108 F.R.D. at 332-333).

The *In re Convergent Technologies Securities Litigation* frame work to be applied to contention interrogatories has been examined in the Central District of

California in Cable *& Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 651 (C.D. Cal. 1997). This Court, in *Cable & Computer Tech., Inc.*, explicated the evolution of the analysis of when contention interrogatories were appropriate.

Judge Chapman in *Cable & Computer Tech., Inc.* first noted the purpose of the Federal Rules of Civil Procedure.

Rule 1 of the Federal Rules of Civil Procedure directs that the rules "shall be construed to secure the just, speedy, and inexpensive determination of every action." "There probably is no provision in the federal rules that is more important than this mandate. It reflects the spirit in which the rules were conceived and written, and in which they should be, and by and large have been, interpreted..... The Supreme Court of the United States has stated that these rules 'are to be accorded a broad and liberal treatment'." *Trevino v. Celanese Corp.,* 701 F.2d 397, 405 (5th Cir.1983) (citing *Hickman v. Taylor*, 329 U.S. 495, 507, 67 S.Ct. 385, 391, 91 L.Ed. 451 (1947) and *Schlagenhauf v. Holder*, 379 U.S. 104, 114–15, 85 S.Ct. 234, 240, 13 L.Ed.2d 152 (1964)). (*Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 650 (C.D. Cal. 1997).)

Judge Chapman allayed concerns about early use of contention interrogatories and recognized that contention interrogatories are allowed under the Federal Rules of Civil Procedure. Any concern about limiting proof based on limited answers to interrogatories is not well-founded because such answers may be withdrawn or amended, and parties have an ongoing obligation to "seasonably amend" answers throughout the litigation. (See Id., 175 F.D.R. at 650-651.)

Judge Chapman then noted that Judge Brazil, the author of *In re Convergent Technologies Securities Litigation*, had recently even acknowledged the importance of early use of contention interrogatories in certain matters:

> In *Convergent Technologies*, Judge Wayne D. Brazil, in a very thoughtful opinion, held that the 1983 amendments to Fed.R.Civ.P. 26(b) compelled his conclusion that the "wisest

> course is not to preclude entirely the early use of contention interrogatories, but to place a burden of justification on the party who seeks answers to these kinds of questions before substantial documentary or testimonial discovery has been completed.... [T]he propounding party must present specific, plausible grounds for believing that securing early answers to its contention questions will materially advance the goals of the Federal Rules of Civil Procedure." 108 F.R.D. at 338–39. More recently, however, Judge Brazil has modified his position, noting that contention interrogatories may in certain cases be the most reliable and cost-effective discovery device, which would be less burdensome than depositions at which contention questions are propounded. See *McCormick–Morgan, Inc. v. Teledyne Industries, Inc.*, 134 F.R.D. 275, 287 (N.D.Cal.1991) (holding appropriately framed and timed contention interrogatories rather than depositions in patent infringement action was most appropriate vehicle for establishing infringers' contentions). *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 651–52 (C.D. Cal. 1997).

In fact Judge Chapman, instead of placing the burden on the party propounding the request in justifying the need for early discovery on such issues, found placing the burden on the party opposing responding to the request, as is done normally, was more appropriate. (See Id., 175 F.R.D. at 652.)

In this case, though, the requests made by Blakeman are appropriate no matter what analysis is applied to his alleged "contention interrogatories." The requests seek to identify witnesses. If Blakeman has the burden to show this is necessary he easily meets it as there is no way he can potentially defend his case, bring motions under Rule 56, or bring motions under Rule 11 without knowing the witnesses who supposedly support the allegations he is in a gang, that he commits intentional torts of criminal nature, or that he is engaged in some act of negligence. Alternatively, plaintiffs cannot show that they could even meet their burden in resisting disclosure of this information.

How could plaintiffs' bring such egregious allegations (i.e. assault, battery, violations of the Bane act) without having some witness to such acts by Mr. Blakeman let alone a witness who is a victim of such acts. This is compounded by the Plaintiffs' initial disclosures that list only one witness who has some vague

unspecified knowledge about Blakeman.

Surely Mr. Blakeman, who is accused of such things, and has timely requested supporting information for these very specific allegations, should have the opportunity to know about and to depose the witnesses who allegedly support such allegations. Surely if no such persons exist then the lack of such evidence must be exposed. Failing to indicate whether such evidence exists or does not exists only serves to thwart the truth and the spirit of the Federal Rules of Civil Procedure.

Plaintiffs' objection is not a basis to avoid answering this interrogatory.

Plaintiffs' Contention

Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection. Plaintiffs are entitled to – and fully intend to – supplement their discovery responses when they "learn[] that in some material respect the disclosure or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally, Defendant Blakeman is in control of much of the information needed to respond to his contention interrogatories but, to date, has refused to produce any documents or videos in response to Plaintiffs' discovery requests and in violation of his obligations under Federal Rule 26(a).

1. Unduly Burdensome, Harassing, and Duplicative

Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the claims against Blakeman on the grounds that they already disclosed the names of potential witnesses in their initial and supplemental disclosures. Specifically, Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a number of whom likely witnessed the claims pertaining to Mr. Blakeman.

Mr. Blakeman already has the list of potential witnesses in his possession. Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs to be compelled to identify these witnesses again.

2. Compound

Plaintiffs objected to Mr. Blakeman's requests to identify persons with knowledge of facts supporting their contentions and facts within each person's knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits a party to 25 interrogatories propounded on any other party, including all discrete subparts.

Courts have consistently concluded that an interrogatory that asks a party to identify facts, documents, and witnesses should count as separate interrogatories. See, e.g., *Makaeff v. Trump Univ.*, LLC, 2014 WL 3490356, at *7 (S.D. Cal. July 11, 2014) (concluding the interrogatory "contains 3 discrete subparts [for facts, documents, and witnesses,] and these subparts must be multiplied by the number of RFAs that were not unqualified admissions"); *Superior Commc'ns v. Earhugger, Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S. Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

Mr. Blakeman's attempt to subvert the rules by asking interrogatories containing multiple impermissible subparts is wholly improper and therefore Plaintiffs' objection on this ground was appropriate.

3. Information Outside Plaintiff's Knowledge

Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of witnesses to support their allegations. To the contrary, Plaintiffs have identified in their October 2, 2016, supplemental disclosures 105 witnesses who may possess knowledge of the allegations. Moreover, discovery in this matter is in its infancy. To the extent Plaintiffs identify additional witnesses who support their claims throughout the course of discovery in this matter, Plaintiffs are aware of their obligation under the Federal Rules to timely supplement their discovery and disclosures.

Plaintiffs' objection on the grounds that the interrogatories seek information outside their knowledge is an objection *only to the extent* that the information sought is outside the individually-responding Plaintiff's knowledge. Although Plaintiffs neglected to include the words "to the extent that" preceding these written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend their objections to include this wording, if the Court so orders.

4. Attorney-Client Privilege and Attorney Work Product Doctrine

Plaintiffs objected to the interrogatories *to the extent that* they invade the attorney-client privilege and/or the work product doctrine by compelling privileged communication and/or litigation strategy. These objections are worded such that either the attorney-client privilege or the attorney work product doctrine (or both) could protect the information from disclosure. The objections do not state that both privileges necessarily apply to each piece of information sought.

Furthermore, Plaintiffs do not claim that all information sought is privileged, as evidenced by the inclusion of "to the extent that" preceding these objections. Rather, Plaintiffs have applied the work product doctrine to protect trial preparation materials that reveal attorney strategy, intended lines of proof, evaluations of strengths and weaknesses, and inferences drawn from interviews. Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947). Plaintiffs have applied the attorney-client privilege to protect confidential communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156 (9th Cir. 2010).

5. Premature Contention Interrogatories

Plaintiffs objected to Mr. Blakeman's interrogatories as premature because they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v. Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2. This objection was proper.

Contention interrogatories need not be answered until discovery is "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held that discovery was not "substantially complete" when the discovery cutoff was 4 months away and depositions of fact witnesses or defendants had not yet occurred. The court opined that "[i]f Defendants had completed their document production, depositions were under way, and the discovery cutoff date was just a month or so away, Defendants ***might*** be entitled to the information they seek. But under the circumstances here, Defendants' interrogatories are premature." *Kmiec*, at *1 (emphasis added).

Similarly, the *Folz* court found that discovery was not substantially complete and the responding party had adequate time to supplement his answers when the discovery cutoff was 8 months away. *Folz*, at *3. Even the case Mr. Blakeman cited, *HTC Corp. v. Tech. Properties Ltd*., 2011 WL 97787 (N.D. Cal. Jan. 12, 2011), held that the responding party did not need to respond to contention interrogatories because discovery was "still in full-swing." *HTC Corp*., at *3.

In the instant lawsuit, the discovery cutoff is more than 9 months away, on August 7, 2017. None of the individual Defendants – including Mr. Blakeman – have produced any documents despite Plaintiffs' requests for production, and Plaintiff Cory Spencer only produced his first set of documents on November 4, 2016. Additionally, the parties have only taken 6 out of the 20 possible depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara, Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last month. Thus, it is clear that the parties are in the early stages of discovery. Discovery is far from being "substantially complete"; therefore, Plaintiffs need not respond to Defendant Blakeman's premature contention interrogatories.

6. IDENTIFY ALL PERSONS that have knowledge of any facts that support your contention that BLAKE BRANTMAN has illegally extorted money from beachgoers who wish to use Lunada Bay for recreational purposes (See

paragraph 33 j. of the Complaint) , and for each such PERSON identified state all facts you contend are within that PERSON's knowledge.

Plaintiffs' Response to Interrogatory #6

Responding party objects to this interrogatory as unduly burdensome, harassing, and duplicative of information disclosed in Responding Party's Rule 26(a) disclosures and supplemental disclosures. Propounding Party may look to Responding Party's Rule 26(a) disclosures and supplemental disclosures for the information sought by this interrogatory. Moreover, Responding Party had the opportunity to depose Mr. Spencer on this topic.

Responding party further objects to this interrogatory as compound. This "interrogatory" contains multiple impermissible subparts, which Propounding Party has propounded in an effort to circumvent the numerical limitations on interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

Responding Party further objects to this interrogatory on the grounds that it seeks information that is outside of Responding Party's knowledge.

Responding Party further objects to the extent that this interrogatory invades attorney-client privilege and/or violates the work product doctrine by compelling Responding Party to disclose privileged communications and/or litigation strategy. Responding Party will not provide any such information.

Responding Party further objects to this interrogatory as premature. Because this interrogatory seeks or necessarily relies upon a contention, and because this matter is in its early stages and pretrial discovery has only just begun, Responding Party is unable to provide a complete response at this time, nor is it required to do so. *See Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31 2014) at *1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may order that [a contention] interrogatory need not be answered until designated discovery is complete, or until a pretrial conference or some other time.").

Based on the foregoing objections, Responding Party will not respond to this interrogatory at this time.

Defendant Brant Blakeman's Contention

The Interrogatory seeks witness information pertaining to any and all persons who plaintiffs claim support a specific contention made against Brant Blakeman in his personal capacity, not as a member of a group but as an individual.

The interrogatories at issue merely seek the identification of witnesses and the identification of the facts believed to be within those witnesses knowledge purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his personal capacity.

The discovery requests defined "BRANT BLAKEMAN" as follows:

> BRANT BLAKEMAN means only Brant Blakeman in his individual capacity. This definition expressly excludes Brant Blakeman as an alleged member of what plaintiff alleges are the "Lunada Bay Boys." This definition expressly excludes the actions or omissions of any other PERSON other than Brant Blakeman in his individual capacity. This definition expressly excludes acts of PERSONS other than Brant Blakeman that plaintiff attributes to Brant Blakeman under a theory of Civil Conspiracy.

Failure to produce the information sought by the Interrogatory is intended only to prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely hoping to take while he is unprepared in his defense to plaintiffs' contentions against him.

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The response offers only uniform boilerplate objections. Based on those objections, the response asserts that no answers to the requests will be provided. Because the objections are unmeritorious, a further, substantive response must be compelled.

1. Undue Burden, Harassment, and Duplication

Plaintiff contends that identifying the witnesses to the claims against Mr. Blakeman is unduly burdensome and harassing and the information can be found in the initial and supplemental disclosures. Plaintiffs in their initial disclosure identify only one witness with potential knowledge concerning Mr. Blakeman, Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry presented by this Interrogatory, then it certainly strains reason that answering it is burdensome or harassing. If there are other witnesses that allege Mr. Blakeman did some act those witnesses likewise should be identified.

This objection by plaintiff is not a justification to refuse to provide a response to the interrogatory.

2. The Interrogatory is Compound and has Subparts

Plaintiff contends the Interrogatory is designed to circumvent the numerical limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit. The Interrogatory seeks the identification of a witness and the facts within that witnesses knowledge. FRCP Rule 33 allows the interrogatories to include "discrete subparts." Seeking the identification of witnesses and the facts within their knowledge are considered one interrogatory. (See *Chapman v. California Dept. of Educ.*, 2002 WL 32854376, at *1 (N.D.Cal.,2002)). For sake of mathematical exercise, even were one to entertain the contention that the Interrogatory did not contain discrete subparts, there are only two: 12 interrogatories multiplied by two equals 24, which is within the limits of FRCP Rule 33 which allows for 25 interrogatories.

This objection by plaintiff is not a justification to refuse to provide a

response to the Interrogatory.

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How is it that plaintiff can bring such egregious allegations without some personal knowledge of witnesses who will support the allegations (including the plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing expedition against Mr. Blakeman and they were in violation of Rule 11 when the complaint was filed? If plaintiff does not have knowledge the identity of witnesses that support allegations, the response should merely state there are none. Otherwise the witnesses should be identified.

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatories.

4. The Interrogatory Invades the Attorney Client Privilege and Attorney Work Product Doctrine

Plaintiff objects that identifying witnesses and the facts within a witnesses knowledge that supports allegations that Mr. Blakeman acted in some manner invades the attorney client privilege. There is no legal support for withholding witnesses identities based on the attorney client privilege. Personal knowledge about facts are not privileged. "[T]he protection of the privilege extends only to communications and not to facts. A fact is one thing and a communication concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct. 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatory.

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5. The Interrogatory is Premature as a Contention Interrogatory

Plaintiff alleges the Interrogatory seeks a contention and due to the early state of litigation and pre-trial discovery, responding party is unable to provide a complete response and, in any event, it is required to so; citing to *Kmiec v. Powerwave Techs. Inc*. et al., 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31 2014) at *1-2.; and FRCP Rule 33(a)(2).

While this is an argument that contention interrogatories can be delayed, the subject interrogatories do not fall into that context; the responding party is the party making the allegations, not the one responding to the allegations.

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honestly) Plaintiffs alone have the supporting facts.

Folz related to contention interrogatories on defendant's affirmative defenses; something that clearly would involve significantly more discovery to develop than is the situation here where defendant is simply seeking information regarding contention's made by plaintiffs in their initial pleadings; seeking only the identification of witnesses that support plaintiffs' contentions that Mr. Blakeman committed some act. This information will allow Mr. Blakeman to depose such persons and to have a "just, speedy, and inexpensive determination [in this] action." (FRCP Rule 1.)

The identification of witnesses is important not only to Mr. Blakeman's defense but also because they would contribute meaningfully to narrow the scope of the issues in dispute, set up early settlement discussions, and expose the potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v. Technology Properties Ltd.*, 2011 WL 97787, at *2 (N.D.Cal.,2011) These factors are important in assessing whether it would be appropriate for the early use of contention interrogatories (See *In re Convergent Technologies Securities Litigation*, 108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue Rule 56 motions as there appears to be no evidence supporting the causes of action against him. It also appears that there is a lack of evidence to even support probable cause to pursue an action against him and a Rule 11 motion is likewise being considered. The discovery is thus also intended to ferret out what appears to be baseless character assassination.

In re Convergent Technologies Securities Litigation recognized the importance of the identification of witnesses as a type of contention interrogatory that is appropriate. (Id. 108 F.R.D. at 332-333). This case, often cited for the frame work it provides related to contention interrogatories, also noted that the frame work does not apply to the identity of witnesses with knowledge of the facts giving rise to the litigation or documents supporting material factual allegations.

(See Id.) The Court compelled the disclosure of the identity of witnesses early in litigation. (Id. 108 F.R.D. at 332-333).

The *In re Convergent Technologies Securities Litigation* frame work to be applied to contention interrogatories has been examined in the Central District of California in *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc*., 175 F.R.D. 646, 651 (C.D. Cal. 1997). This Court, in *Cable & Computer Tech., Inc.*, explicated the evolution of the analysis of when contention interrogatories were appropriate.

Judge Chapman in *Cable & Computer Tech., Inc.* first noted the purpose of the Federal Rules of Civil Procedure. Rule 1 of the Federal Rules of Civil Procedure directs that the rules "shall be construed to secure the just, speedy, and inexpensive determination of every action." "There probably is no provision in the federal rules that is more important than this mandate. It reflects the spirit in which the rules were conceived and written, and in which they should be, and by and large have been, interpreted..... The Supreme Court of the United States has stated that these rules 'are to be accorded a broad and liberal treatment'." *Trevino v. Celanese Corp.*, 701 F.2d 397, 405 (5th Cir.1983) (citing *Hickman v. Taylor*, 329 U.S. 495, 507, 67 S.Ct. 385, 391, 91 L.Ed. 451 (1947) and *Schlagenhauf v. Holder*, 379 U.S. 104, 114–15, 85 S.Ct. 234, 240, 13 L.Ed.2d 152 (1964)). (*Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 650 (C.D. Cal. 1997).)

Judge Chapman allayed concerns about early use of contention interrogatories and recognized that contention interrogatories are allowed under the Federal Rules of Civil Procedure. Any concern about limiting proof based on limited answers to interrogatories is not well-founded because such answers may be withdrawn or amended, and parties have an ongoing obligation to "seasonably amend" answers throughout the litigation. (See Id., 175 F.D.R. at 650-651.)

Judge Chapman then noted that Judge Brazil, the author of *In re Convergent*

Technologies Securities Litigation, had recently even acknowledged the importance of early use of contention interrogatories in certain matters:

> In *Convergent Technologies*, Judge Wayne D. Brazil, in a very thoughtful opinion, held that the 1983 amendments to Fed.R.Civ.P. 26(b) compelled his conclusion that the "wisest course is not to preclude entirely the early use of contention interrogatories, but to place a burden of justification on the party who seeks answers to these kinds of questions before substantial documentary or testimonial discovery has been completed.... [T]he propounding party must present specific, plausible grounds for believing that securing early answers to its contention questions will materially advance the goals of the Federal Rules of Civil Procedure." 108 F.R.D. at 338–39. More recently, however, Judge Brazil has modified his position, noting that contention interrogatories may in certain cases be the most reliable and cost-effective discovery device, which would be less burdensome than depositions at which contention questions are propounded. See *McCormick–Morgan, Inc. v. Teledyne Industries, Inc.*, 134 F.R.D. 275, 287 (N.D.Cal.1991) (holding appropriately framed and timed contention interrogatories rather than depositions in patent infringement action was most appropriate vehicle for establishing infringers' contentions). *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 651–52 (C.D. Cal. 1997).

In fact Judge Chapman, instead of placing the burden on the party propounding the request in justifying the need for early discovery on such issues, found placing the burden on the party opposing responding to the request, as is done normally, was more appropriate. (See Id., 175 F.R.D. at 652.)

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In this case, though, the requests made by Blakeman are appropriate no matter what analysis is applied to his alleged "contention interrogatories." The requests seek to identify witnesses. If Blakeman has the burden to show this is necessary he easily meets it as there is no way he can potentially defend his case, bring motions under Rule 56, or bring motions under Rule 11 without knowing the witnesses who supposedly support the allegations he is in a gang, that he commits intentional torts of criminal nature, or that he is engaged in some act of negligence. Alternatively, plaintiffs cannot show that they could even meet their burden in resisting disclosure of this information. How could plaintiffs bring such egregious allegations (i.e. assault, battery, violations of the Bane Act) without having some witness to such acts by Mr. Blakeman let alone a witness who is a victim of such acts. This is compounded by the Plaintiffs' initial disclosures that list only one witness who has some vague unspecified knowledge about Blakeman.

Surely Mr. Blakeman, who is accused of such things, and has timely requested supporting information for these very specific allegations, should have the opportunity to know about and to depose the witnesses who allegedly support such allegations. Surely if no such persons exist then the lack of such evidence must be exposed. Failing to indicate whether such evidence exists or does not exists only serves to thwart the truth and the spirit of the Federal Rules of Civil Procedure.

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatory.

Plaintiffs' Contention

Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection. Plaintiffs are entitled to – and fully intend to – supplement their discovery responses when they "learn[] that in some material respect the disclosure or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally,

Defendant Blakeman is in control of much of the information needed to respond to his contention interrogatories but, to date, has refused to produce any documents or videos in response to Plaintiffs' discovery requests and in violation of his obligations under Federal Rule 26(a).

1. Unduly Burdensome, Harassing, and Duplicative

Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the claims against Blakeman on the grounds that they already disclosed the names of potential witnesses in their initial and supplemental disclosures. Specifically, Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a number of whom likely witnessed the claims pertaining to Mr. Blakeman.

Mr. Blakeman already has the list of potential witnesses in his possession. Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs to be compelled to identify these witnesses again.

2. Compound

Plaintiffs objected to Mr. Blakeman's requests to identify persons with knowledge of facts supporting their contentions and facts within each person's knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits a party to 25 interrogatories propounded on any other party, including all discrete subparts.

Courts have consistently concluded that an interrogatory that asks a party to identify facts, documents, and witnesses should count as separate interrogatories. See, e.g., *Makaeff v. Trump Univ.*, LLC, 2014 WL 3490356, at *7 (S.D. Cal. July 11, 2014) (concluding the interrogatory "contains 3 discrete subparts [for facts, documents, and witnesses,] and these subparts must be multiplied by the number of RFAs that were not unqualified admissions"); *Superior Commc'ns v. Earhugger, Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S. Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

Mr. Blakeman's attempt to subvert the rules by asking interrogatories containing multiple impermissible subparts is wholly improper and therefore Plaintiffs' objection on this ground was appropriate.

3. Information Outside Plaintiff's Knowledge

Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of witnesses to support their allegations. To the contrary, Plaintiffs have identified in their October 2, 2016, supplemental disclosures 105 witnesses who may possess knowledge of the allegations. Moreover, discovery in this matter is in its infancy. To the extent Plaintiffs identify additional witnesses who support their claims throughout the course of discovery in this matter, Plaintiffs are aware of their obligation under the Federal Rules to timely supplement their discovery and disclosures.

Plaintiffs' objection on the grounds that the interrogatories seek information outside their knowledge is an objection *only to the extent* that the information sought is outside the individually-responding Plaintiff's knowledge. Although Plaintiffs neglected to include the words "to the extent that" preceding these written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend their objections to include this wording, if the Court so orders.

4. Attorney-Client Privilege and Attorney Work Product Doctrine

Plaintiffs objected to the interrogatories *to the extent that* they invade the attorney-client privilege and/or the work product doctrine by compelling privileged communication and/or litigation strategy. These objections are worded such that either the attorney-client privilege or the attorney work product doctrine (or both) could protect the information from disclosure. The objections do not state that both privileges necessarily apply to each piece of information sought.

Furthermore, Plaintiffs do not claim that all information sought is privileged, as evidenced by the inclusion of "to the extent that" preceding these objections.

Rather, Plaintiffs have applied the work product doctrine to protect trial preparation materials that reveal attorney strategy, intended lines of proof, evaluations of strengths and weaknesses, and inferences drawn from interviews. Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947). Plaintiffs have applied the attorney-client privilege to protect confidential communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156 (9th Cir. 2010).

5. Premature Contention Interrogatories

Plaintiffs objected to Mr. Blakeman's interrogatories as premature because they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v. Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2. This objection was proper.

Contention interrogatories need not be answered until discovery is "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held that discovery was not "substantially complete" when the discovery cutoff was 4 months away and depositions of fact witnesses or defendants had not yet occurred. The court opined that "[i]f Defendants had completed their document production, depositions were under way, and the discovery cutoff date was just a month or so away, Defendants ***might*** be entitled to the information they seek. But under the circumstances here, Defendants' interrogatories are premature." *Kmiec*, at *1 (emphasis added).

Similarly, the *Folz* court found that discovery was not substantially complete and the responding party had adequate time to supplement his answers when the discovery cutoff was 8 months away. *Folz*, at *3. Even the case Mr. Blakeman cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12, 2011), held that the responding party did not need to respond to contention interrogatories because discovery was "still in full-swing." *HTC Corp.*, at *3.

In the instant lawsuit, the discovery cutoff is more than 9 months away, on August 7, 2017. None of the individual Defendants – including Mr. Blakeman – have produced any documents despite Plaintiffs' requests for production, and Plaintiff Cory Spencer only produced his first set of documents on November 4, 2016. Additionally, the parties have only taken 6 out of the 20 possible depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara, Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last month. Thus, it is clear that the parties are in the early stages of discovery. Discovery is far from being "substantially complete"; therefore, Plaintiffs need not respond to Defendant Blakeman's premature contention interrogatories.

7. IDENTIFY ALL PERSONS that have knowledge of any facts that support your contention that BLAKE BRANTMAN was a part of a Civil Conspiracy as identified in your complaint in paragraphs 51 through 53, and for each such PERSON identified state all facts you contend are within that PERSON's knowledge.

Plaintiffs' Response to Interrogatory #7

Responding party objects to this interrogatory as unduly burdensome, harassing, and duplicative of information disclosed in Responding Party's Rule 26(a) disclosures and supplemental disclosures. Propounding Party may look to Responding Party's Rule 26(a) disclosures and supplemental disclosures for the information sought by this interrogatory. Moreover, Responding Party had the opportunity to depose Mr. Spencer on this topic.

Responding party further objects to this interrogatory as compound. This "interrogatory" contains multiple impermissible subparts, which Propounding Party has propounded in an effort to circumvent the numerical limitations on interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

Responding Party further objects to this interrogatory on the grounds that it seeks information that is outside of Responding Party's knowledge.

Responding Party further objects to the extent that this interrogatory invades attorney-client privilege and/or violates the work product doctrine by compelling Responding Party to disclose privileged communications and/or litigation strategy. Responding Party will not provide any such information.

Responding Party further objects to this interrogatory as premature. Because this interrogatory seeks or necessarily relies upon a contention, and because this matter is in its early stages and pretrial discovery has only just begun, Responding Party is unable to provide a complete response at this time, nor is it required to do so. See *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31 2014) at *1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may order that [a contention] interrogatory need not be answered until designated discovery is complete, or until a pretrial conference or some other time.").

Based on the foregoing objections, Responding Party will not respond to this interrogatory at this time.

Defendant Brant Blakeman's Contention

The Interrogatory seeks witness information pertaining to any and all persons who plaintiffs claim support a specific contention made against Brant Blakeman in his personal capacity, not as a member of a group but as an individual.

The interrogatories at issue merely seek the identification of witnesses and the identification of the facts believed to be within those witnesses knowledge purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his personal capacity.

The discovery requests defined "BRANT BLAKEMAN" as follows:

> BRANT BLAKEMAN means only Brant Blakeman in his individual capacity. This definition expressly excludes Brant Blakeman as an alleged member of what plaintiff alleges are the "Lunada Bay Boys." This definition

> expressly excludes the actions or omissions of any other PERSON other than Brant Blakeman in his individual capacity. This definition expressly excludes acts of PERSONS other than Brant Blakeman that plaintiff attributes to Brant Blakeman under a theory of Civil Conspiracy.

Failure to produce the information sought by the Interrogatory is intended only to prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely hoping to take while he is unprepared in his defense to plaintiffs' contentions against him.

The response offers only uniform boilerplate objections. Based on those objections, the response asserts that no answers to the requests will be provided. Because the objections are unmeritorious, a further, substantive response must be compelled.

1. Undue Burden, Harassment, and Duplication

Plaintiff contends that identifying the witnesses to the claims against Mr. Blakeman is unduly burdensome and harassing and the information can be found in the initial and supplemental disclosures. Plaintiffs in their initial disclosure identify only one witness with potential knowledge concerning Mr. Blakeman, Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry presented by this Interrogatory, then it certainly strains reason that answering it is burdensome or harassing. If there are other witnesses that allege Mr. Blakeman did some act those witnesses likewise should be identified.

This objection by plaintiff is not a justification to refuse to provide a response to the interrogatory.

2. The Interrogatory is Compound and has Subparts

Plaintiff contends the Interrogatory is designed to circumvent the numerical limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit.

The Interrogatory seeks the identification of a witness and the facts within that witnesses knowledge. FRCP Rule 33 allows the interrogatories to include "discrete subparts." Seeking the identification of witnesses and the facts within their knowledge are considered one interrogatory. (See *Chapman v. California Dept. of Educ.*, 2002 WL 32854376, at *1 (N.D.Cal.,2002)). For sake of mathematical exercise, even were one to entertain the contention that the Interrogatory did not contain discrete subparts, there are only two: 12 interrogatories multiplied by two equals 24, which is within the limits of FRCP Rule 33 which allows for 25 interrogatories.

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatory.

3. The Interrogatory Seeks Information that is Outside of Responding Party's Knowledge

Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's knowledge. This objection either wholly lacks merit or there are very troubling issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

How is it that plaintiff can bring such egregious allegations without some personal knowledge of witnesses who will support the allegations (including the plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing expedition against Mr. Blakeman and they were in violation of Rule 11 when the complaint was filed? If plaintiff does not have knowledge the identity of witnesses that support allegations, the response should merely state there are none. Otherwise the witnesses should be identified.

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatories.

4. The Interrogatory Invades the Attorney Client Privilege and Attorney Work Product Doctrine

Plaintiff objects that identifying witnesses and the facts within a witnesses

knowledge that supports allegations that Mr. Blakeman acted in some manner invades the attorney client privilege. There is no legal support for withholding witnesses identities based on the attorney client privilege. Personal knowledge about facts are not privileged. "[T]he protection of the privilege extends only to communications and not to facts. A fact is one thing and a communication concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct. 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatory.

5. <u>The Interrogatory is Premature as a Contention Interrogatory</u>

Plaintiff alleges the Interrogatory seeks a contention and due to the early state of litigation and pre-trial discovery, responding party is unable to provide a complete response and, in any event, it is required to so; citing to *Kmiec v. Powerwave Techs. Inc. et al*., 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31 2014) at *1-2.; and FRCP Rule 33(a)(2).

While this is an argument that contention interrogatories can be delayed, the subject interrogatories do not fall into that context; the responding party is the party making the allegations, not the one responding to the allegations.

This action involves plaintiffs (bound by their own pleading) in their individual capacities, as well as representative capacities, alleging intentional torts, nuisance, and negligence against Mr. Blakeman. The allegations against Mr. Blakeman which each of these plaintiffs make include accusation of involvement in "predicate crimes" which include, for example, murder, mayhem, counterfeiting, rape and similar egregious crimes. Having made these allegations Plaintiffs must have some idea of the witnesses, documents or facts to support the allegations. Plaintiffs' counsel must also have some basis else they run afoul of Rule 11.

No substantive responses are provided. It is likely that no basis exists for

these allegations against Mr. Blakeman; he is entitled to know the basis before facing a deposition by ambush.

Plaintiffs' refusal is fatally flawed in any event. The cases cited are inapposite.

Kmeic was a securities litigation matter. In context, *Kmeic* reasoned that asking contention interrogatories to a shareholder plaintiff early in litigation required more time for the litigation to develop. Such is not the case with the issues involved in this litigation, where Plaintiffs each claim to represent a class of people and make specific allegations against Mr. Blakeman for which (if pled honestly) Plaintiffs alone have the supporting facts.

Folz related to contention interrogatories on defendant's affirmative defenses; something that clearly would involve significantly more discovery to develop than is the situation here where defendant is simply seeking information regarding contention's made by plaintiffs in their initial pleadings; seeking only the identification of witnesses that support plaintiffs' contentions that Mr. Blakeman committed some act. This information will allow Mr. Blakeman to depose such persons and to have a "just, speedy, and inexpensive determination [in this] action." (FRCP Rule 1.)

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Plaintiffs' objection is not a basis to avoid answering this interrogatory.

Plaintiffs' Contention

Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy

Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection. Plaintiffs are entitled to – and fully intend to – supplement their discovery responses when they "learn[] that in some material respect the disclosure or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally, Defendant Blakeman is in control of much of the information needed to respond to his contention interrogatories but, to date, has refused to produce any documents or videos in response to Plaintiffs' discovery requests and in violation of his obligations under Federal Rule 26(a).

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5. Premature Contention Interrogatories

Plaintiffs objected to Mr. Blakeman's interrogatories as premature because they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v. Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2. This objection was proper.

Contention interrogatories need not be answered until discovery is "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held that discovery was not "substantially complete" when the discovery cutoff was 4 months away and depositions of fact witnesses or defendants had not yet occurred. The court opined that "[i]f Defendants had completed their document production, depositions were under way, and the discovery cutoff date was just a month or so away, Defendants ***might*** be entitled to the information they seek. But under the circumstances here, Defendants' interrogatories are premature." *Kmiec*, at *1 (emphasis added).

Similarly, the *Folz* court found that discovery was not substantially complete and the responding party had adequate time to supplement his answers when the

discovery cutoff was 8 months away. *Folz*, at *3. Even the case Mr. Blakeman cited, *HTC Corp. v. Tech. Properties Ltd*., 2011 WL 97787 (N.D. Cal. Jan. 12, 2011), held that the responding party did not need to respond to contention interrogatories because discovery was "still in full-swing." *HTC Corp*., at *3.

In the instant lawsuit, the discovery cutoff is more than 9 months away, on August 7, 2017. None of the individual Defendants – including Mr. Blakeman – have produced any documents despite Plaintiffs' requests for production, and Plaintiff Cory Spencer only produced his first set of documents on November 4, 2016. Additionally, the parties have only taken 6 out of the 20 possible depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara, Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last month. Thus, it is clear that the parties are in the early stages of discovery. Discovery is far from being "substantially complete"; therefore, Plaintiffs need not respond to Defendant Blakeman's premature contention interrogatories.

8. IDENTIFY ALL PERSONS that have knowledge of any facts that support plaintiffs' First Cause of Action in the Complaint (Bane Act Violations) against BRANT BLAKEMAN, and for each such PERSON identified state all facts you contend are within that PERSON's knowledge.

Plaintiffs' Response to Interrogatory #8

Responding party objects to this interrogatory as unduly burdensome, harassing, and duplicative of information disclosed in Responding Party's Rule 26(a) disclosures and supplemental disclosures. Propounding Party may look to Responding Party's Rule 26(a) disclosures and supplemental disclosures for the information sought by this interrogatory. Moreover, Responding Party had the opportunity to depose Mr. Spencer on this topic.

Responding party further objects to this interrogatory as compound. This "interrogatory" contains multiple impermissible subparts, which Propounding Party has propounded in an effort to circumvent the numerical limitations on

interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

Responding Party further objects to this interrogatory on the grounds that it seeks information that is outside of Responding Party's knowledge.

Responding Party further objects to the extent that this interrogatory invades attorney-client privilege and/or violates the work product doctrine by compelling Responding Party to disclose privileged communications and/or litigation strategy. Responding Party will not provide any such information.

Responding Party further objects to this interrogatory as premature. Because this interrogatory seeks or necessarily relies upon a contention, and because this matter is in its early stages and pretrial discovery has only just begun, Responding Party is unable to provide a complete response at this time, nor is it required to do so. See *Kmiec v. Powerwave Techs. Inc. et al*., 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31 2014) at *1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may order that [a contention] interrogatory need not be answered until designated discovery is complete, or until a pretrial conference or some other time.").

Based on the foregoing objections, Responding Party will not respond to this interrogatory at this time.

Defendant Brant Blakeman's Contention

The Interrogatory seeks witness information pertaining to any and all persons who plaintiffs claim support a specific contention made against Brant Blakeman in his personal capacity, not as a member of a group but as an individual.

The interrogatories at issue merely seek the identification of witnesses and the identification of the facts believed to be within those witnesses knowledge purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his personal capacity.

The discovery requests defined "BRANT BLAKEMAN" as follows:

> BRANT BLAKEMAN means only Brant Blakeman in his individual capacity. This definition expressly excludes Brant Blakeman as an alleged member of what plaintiff alleges are the "Lunada Bay Boys." This definition expressly excludes the actions or omissions of any other PERSON other than Brant Blakeman in his individual capacity. This definition expressly excludes acts of PERSONS other than Brant Blakeman that plaintiff attributes to Brant Blakeman under a theory of Civil Conspiracy.

Failure to produce the information sought by the Interrogatory is intended only to prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely hoping to take while he is unprepared in his defense to plaintiffs' contentions against him.

The response offers only uniform boilerplate objections. Based on those objections, the response asserts that no answers to the requests will be provided. Because the objections are unmeritorious, a further, substantive response must be compelled.

1. <u>Undue Burden, Harassment, and Duplication</u>

Plaintiff contends that identifying the witnesses to the claims against Mr. Blakeman is unduly burdensome and harassing and the information can be found in the initial and supplemental disclosures. Plaintiffs in their initial disclosure identify only one witness with potential knowledge concerning Mr. Blakeman, Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry presented by this Interrogatory, then it certainly strains reason that answering it is burdensome or harassing. If there are other witnesses that allege Mr. Blakeman did some act those witnesses likewise should be identified.

This objection by plaintiff is not a justification to refuse to provide a response to the interrogatory.

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2. The Interrogatory is Compound and has Subparts

Plaintiff contends the Interrogatory is designed to circumvent the numerical limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit. The Interrogatory seeks the identification of a witness and the facts within that witnesses knowledge. FRCP Rule 33 allows the interrogatories to include "discrete subparts." Seeking the identification of witnesses and the facts within their knowledge are considered one interrogatory. (See *Chapman v. California Dept. of Educ.*, 2002 WL 32854376, at *1 (N.D.Cal.,2002)). For sake of mathematical exercise, even were one to entertain the contention that the Interrogatory did not contain discrete subparts, there are only two: 12 interrogatories multiplied by two equals 24, which is within the limits of FRCP Rule 33 which allows for 25 interrogatories.

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatory.

3. The Interrogatory Seeks Information that is Outside of Responding Party's Knowledge

Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's knowledge. This objection either wholly lacks merit or there are very troubling issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

How is it that plaintiff can bring such egregious allegations without some personal knowledge of witnesses who will support the allegations (including the plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing expedition against Mr. Blakeman and they were in violation of Rule 11 when the complaint was filed? If plaintiff does not have knowledge the identity of witnesses that support allegations, the response should merely state there are none. Otherwise the witnesses should be identified.

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatories.

4. The Interrogatory Invades the Attorney Client Privilege and Attorney Work Product Doctrine

Plaintiff objects that identifying witnesses and the facts within a witnesses knowledge that supports allegations that Mr. Blakeman acted in some manner invades the attorney client privilege. There is no legal support for withholding witnesses identities based on the attorney client privilege. Personal knowledge about facts are not privileged. "[T]he protection of the privilege extends only to communications and not to facts. A fact is one thing and a communication concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct. 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatory.

5. The Interrogatory is Premature as a Contention Interrogatory

Plaintiff alleges the Interrogatory seeks a contention and due to the early state of litigation and pre-trial discovery, responding party is unable to provide a complete response and, in any event, it is required to so; citing to *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31 2014) at *1-2.; and FRCP Rule 33(a)(2).

While this is an argument that contention interrogatories can be delayed, the subject interrogatories do not fall into that context; the responding party is the party making the allegations, not the one responding to the allegations.

This action involves plaintiffs (bound by their own pleading) in their individual capacities, as well as representative capacities, alleging intentional torts, nuisance, and negligence against Mr. Blakeman. The allegations against Mr. Blakeman which each of these plaintiffs make include accusation of involvement in "predicate crimes" which include, for example, murder, mayhem, counterfeiting, rape and similar egregious crimes. Having made these allegations Plaintiffs must

have some idea of the witnesses, documents or facts to support the allegations. Plaintiffs' counsel must also have some basis else they run afoul of Rule 11.

No substantive responses are provided. It is likely that no basis exists for these allegations against Mr. Blakeman; he is entitled to know the basis before facing a deposition by ambush.

Plaintiffs' refusal is fatally flawed in any event. The cases cited are inapposite.

Kmeic was a securities litigation matter. In context, *Kmeic* reasoned that asking contention interrogatories to a shareholder plaintiff early in litigation required more time for the litigation to develop. Such is not the case with the issues involved in this litigation, where Plaintiffs each claim to represent a class of people and make specific allegations against Mr. Blakeman for which (if pled honestly) Plaintiffs alone have the supporting facts.

Folz related to contention interrogatories on defendant's affirmative defenses; something that clearly would involve significantly more discovery to develop than is the situation here where defendant is simply seeking information regarding contention's made by plaintiffs in their initial pleadings; seeking only the identification of witnesses that support plaintiffs' contentions that Mr. Blakeman committed some act. This information will allow Mr. Blakeman to depose such persons and to have a "just, speedy, and inexpensive determination [in this] action." (FRCP Rule 1.)

The identification of witnesses is important not only to Mr. Blakeman's defense but also because they would contribute meaningfully to narrow the scope of the issues in dispute, set up early settlement discussions, and expose the potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v. Technology Properties Ltd.*, 2011 WL 97787, at *2 (N.D.Cal.,2011) These factors are important in assessing whether it would be appropriate for the early use of contention interrogatories(See *In re Convergent Technologies Securities Litigation*,

108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue Rule 56 motions as there appears to be no evidence supporting the causes of action against him. It also appears that there is a lack of evidence to even support probable cause to pursue an action against him and a Rule 11 motion is likewise being considered. The discovery is thus also intended to ferret out what appears to be baseless character assassination.

In re Convergent Technologies Securities Litigation recognized the importance of the identification of witnesses as a type of contention interrogatory that is appropriate. (Id. 108 F.R.D. at 332-333). This case, often cited for the frame work it provides related to contention interrogatories, also noted that the frame work does not apply to the identity of witnesses with knowledge of the facts giving rise to the litigation or documents supporting material factual allegations. (See Id.) The Court compelled the disclosure of the identity of witnesses early in litigation. (Id. 108 F.R.D. at 332-333).

The *In re Convergent Technologies Securities Litigation* frame work to be applied to contention interrogatories has been examined in the Central District of California in *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 651 (C.D. Cal. 1997). This Court, in Cable & Computer Tech., Inc., explicated the evolution of the analysis of when contention interrogatories were appropriate.

Judge Chapman in *Cable & Computer Tech., Inc.* first noted the purpose of the Federal Rules of Civil Procedure.

Rule 1 of the Federal Rules of Civil Procedure directs that the rules "shall be construed to secure the just, speedy, and inexpensive determination of every action." "There probably is no provision in the federal rules that is more important than this mandate. It reflects the spirit in which the rules were conceived and written, and in which they should be, and by and large have been, interpreted..... The Supreme Court of the United States has stated that these rules 'are to be

accorded a broad and liberal treatment'." *Trevino v. Celanese Corp.*, 701 F.2d 397, 405 (5th Cir.1983) (citing *Hickman v. Taylor*, 329 U.S. 495, 507, 67 S.Ct. 385, 391, 91 L.Ed. 451 (1947) and *Schlagenhauf v. Holder*, 379 U.S. 104, 114–15, 85 S.Ct. 234, 240, 13 L.Ed.2d 152 (1964)). (*Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 650 (C.D. Cal. 1997).)

Judge Chapman allayed concerns about early use of contention interrogatories and recognized that contention interrogatories are allowed under the Federal Rules of Civil Procedure. Any concern about limiting proof based on limited answers to interrogatories is not well-founded because such answers may be withdrawn or amended, and parties have an ongoing obligation to "seasonably amend" answers throughout the litigation. (See Id., 175 F.D.R. at 650-651.)

Judge Chapman then noted that Judge Brazil, the author of *In re Convergent Technologies Securities Litigation*, had recently even acknowledged the importance of early use of contention interrogatories in certain matters:

> In *Convergent Technologies*, Judge Wayne D. Brazil, in a very thoughtful opinion, held that the 1983 amendments to Fed.R.Civ.P. 26(b) compelled his conclusion that the "wisest course is not to preclude entirely the early use of contention interrogatories, but to place a burden of justification on the party who seeks answers to these kinds of questions before substantial documentary or testimonial discovery has been completed.... [T]he propounding party must present specific, plausible grounds for believing that securing early answers to its contention questions will materially advance the goals of the Federal Rules of Civil Procedure." 108 F.R.D. at 338–39. More recently, however, Judge Brazil has modified his position, noting that contention interrogatories may in certain cases be the most reliable and cost-effective discovery device, which would be less burdensome than depositions at which contention questions are propounded. *See McCormick–Morgan, Inc. v. Teledyne Industries, Inc.*, 134 F.R.D. 275, 287 (N.D.Cal.1991) (holding appropriately framed and timed contention interrogatories rather than depositions in

> patent infringement action was most appropriate vehicle for establishing infringers' contentions). *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 651–52 (C.D. Cal. 1997).

In fact Judge Chapman, instead of placing the burden on the party propounding the request in justifying the need for early discovery on such issues, found placing the burden on the party opposing responding to the request, as is done normally, was more appropriate. (See Id., 175 F.R.D. at 652.)

In this case, though, the requests made by Blakeman are appropriate no matter what analysis is applied to his alleged "contention interrogatories." The requests seek to identify witnesses. If Blakeman has the burden to show this is necessary he easily meets it as there is no way he can potentially defend his case, bring motions under Rule 56, or bring motions under Rule 11 without knowing the witnesses who supposedly support the allegations he is in a gang, that he commits intentional torts of criminal nature, or that he is engaged in some act of negligence. Alternatively, plaintiffs cannot show that they could even meet their burden in resisting disclosure of this information.

How could plaintiffs' bring such egregious allegations (i.e. assault, battery, violations of the Bane act) without having some witness to such acts by Mr. Blakeman let alone a witness who is a victim of such acts. This is compounded by the Plaintiffs' initial disclosures that list only one witness who has some vague unspecified knowledge about Blakeman.

Surely Mr. Blakeman, who is accused of such things, and has timely requested supporting information for these very specific allegations, should have the opportunity to know about and to depose the witnesses who allegedly support such allegations. Surely if no such persons exist then the lack of such evidence must be exposed. Failing to indicate whether such evidence exists or does not

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exists only serves to thwart the truth and the spirit of the Federal Rules of Civil Procedure.

Plaintiffs' objection is not a basis to avoid answering this interrogatory.

Plaintiffs' Contention

Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection. Plaintiffs are entitled to – and fully intend to – supplement their discovery responses when they "learn[] that in some material respect the disclosure or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally, Defendant Blakeman is in control of much of the information needed to respond to his contention interrogatories but, to date, has refused to produce any documents or videos in response to Plaintiffs' discovery requests and in violation of his obligations under Federal Rule 26(a).

1. Unduly Burdensome, Harassing, and Duplicative

Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the claims against Blakeman on the grounds that they already disclosed the names of potential witnesses in their initial and supplemental disclosures. Specifically, Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a number of whom likely witnessed the claims pertaining to Mr. Blakeman.

Mr. Blakeman already has the list of potential witnesses in his possession. Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs to be compelled to identify these witnesses again.

2. Compound

Plaintiffs objected to Mr. Blakeman's requests to identify persons with knowledge of facts supporting their contentions and facts within each person's knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits a party to 25 interrogatories propounded on any other party, including all discrete subparts.

Courts have consistently concluded that an interrogatory that asks a party to identify facts, documents, and witnesses should count as separate interrogatories. See, e.g., *Makaeff v. Trump Univ.*, LLC, 2014 WL 3490356, at *7 (S.D. Cal. July 11, 2014) (concluding the interrogatory "contains 3 discrete subparts [for facts, documents, and witnesses,] and these subparts must be multiplied by the number of RFAs that were not unqualified admissions"); *Superior Commc'ns v. Earhugger, Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S. Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

Mr. Blakeman's attempt to subvert the rules by asking interrogatories containing multiple impermissible subparts is wholly improper and therefore Plaintiffs' objection on this ground was appropriate.

3. Information Outside Plaintiff's Knowledge

Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of witnesses to support their allegations. To the contrary, Plaintiffs have identified in their October 2, 2016, supplemental disclosures 105 witnesses who may possess knowledge of the allegations. Moreover, discovery in this matter is in its infancy. To the extent Plaintiffs identify additional witnesses who support their claims throughout the course of discovery in this matter, Plaintiffs are aware of their obligation under the Federal Rules to timely supplement their discovery and disclosures.

Plaintiffs' objection on the grounds that the interrogatories seek information outside their knowledge is an objection *only to the extent* that the information sought is outside the individually-responding Plaintiff's knowledge. Although Plaintiffs neglected to include the words "to the extent that" preceding these written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend their objections to include this wording, if the Court so orders.

4. Attorney-Client Privilege and Attorney Work Product Doctrine

Plaintiffs objected to the interrogatories *to the extent that* they invade the attorney-client privilege and/or the work product doctrine by compelling privileged communication and/or litigation strategy. These objections are worded such that either the attorney-client privilege or the attorney work product doctrine (or both) could protect the information from disclosure. The objections do not state that both privileges necessarily apply to each piece of information sought.

Furthermore, Plaintiffs do not claim that all information sought is privileged, as evidenced by the inclusion of "to the extent that" preceding these objections. Rather, Plaintiffs have applied the work product doctrine to protect trial preparation materials that reveal attorney strategy, intended lines of proof, evaluations of strengths and weaknesses, and inferences drawn from interviews. Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947). Plaintiffs have applied the attorney-client privilege to protect confidential communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156 (9th Cir. 2010).

5. Premature Contention Interrogatories

Plaintiffs objected to Mr. Blakeman's interrogatories as premature because they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v. Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2. This objection was proper.

Contention interrogatories need not be answered until discovery is "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held that discovery was not "substantially complete" when the discovery cutoff was 4 months away and depositions of fact witnesses or defendants had not yet occurred. The court opined that "[i]f Defendants had completed their document production, depositions were under way, and the discovery cutoff date was just a month or so

away, Defendants ***might*** be entitled to the information they seek. But under the circumstances here, Defendants' interrogatories are premature." *Kmiec*, at *1 (emphasis added).

Similarly, the *Folz* court found that discovery was not substantially complete and the responding party had adequate time to supplement his answers when the discovery cutoff was 8 months away. *Folz*, at *3. Even the case Mr. Blakeman cited, *HTC Corp. v. Tech. Properties Ltd*., 2011 WL 97787 (N.D. Cal. Jan. 12, 2011), held that the responding party did not need to respond to contention interrogatories because discovery was "still in full-swing." *HTC Corp*., at *3.

In the instant lawsuit, the discovery cutoff is more than 9 months away, on August 7, 2017. None of the individual Defendants – including Mr. Blakeman – have produced any documents despite Plaintiffs' requests for production, and Plaintiff Cory Spencer only produced his first set of documents on November 4, 2016. Additionally, the parties have only taken 6 out of the 20 possible depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara, Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last month. Thus, it is clear that the parties are in the early stages of discovery. Discovery is far from being "substantially complete"; therefore, Plaintiffs need not respond to Defendant Blakeman's premature contention interrogatories.

9. IDENTIFY ALL PERSONS that have knowledge of any facts that support plaintiffs' Second Cause of Action in the Complaint (Public Nuisance) against BRANT BLAKEMAN, and for each such PERSON identified state all facts you contend are within that PERSON's knowledge.

Plaintiffs' Response to Interrogatory #9

Responding party objects to this interrogatory as unduly burdensome, harassing, and duplicative of information disclosed in Responding Party's Rule 26(a) disclosures and supplemental disclosures. Propounding Party may look to

Responding Party's Rule 26(a) disclosures and supplemental disclosures for the information sought by this interrogatory. Moreover, Responding Party had the opportunity to depose Mr. Spencer on this topic.

Responding party further objects to this interrogatory as compound. This "interrogatory" contains multiple impermissible subparts, which Propounding Party has propounded in an effort to circumvent the numerical limitations on interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

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Responding Party further objects to this interrogatory as premature. Because this interrogatory seeks or necessarily relies upon a contention, and because this matter is in its early stages and pretrial discovery has only just begun, Responding Party is unable to provide a complete response at this time, nor is it required to do so. See *Kmiec v. Powerwave Techs. Inc. et al*., 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31 2014) at *1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may order that [a contention] interrogatory need not be answered until designated discovery is complete, or until a pretrial conference or some other time.").

Based on the foregoing objections, Responding Party will not respond to this interrogatory at this time.

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individual.

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Failure to produce the information sought by the Interrogatory is intended only to prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely hoping to take while he is unprepared in his defense to plaintiffs' contentions against him.

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The identification of witnesses is important not only to Mr. Blakeman's defense but also because they would contribute meaningfully to narrow the scope of the issues in dispute, set up early settlement discussions, and expose the potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v. Technology Properties Ltd.*, 2011 WL 97787, at *2 (N.D.Cal.,2011) These factors are important in assessing whether it would be appropriate for the early use of contention interrogatories(See *In re Convergent Technologies Securities Litigation*, 108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue Rule 56 motions as there appears to be no evidence supporting the causes of action against him. It also appears that there is a lack of evidence to even support probable cause to pursue an action against him and a Rule 11 motion is likewise being considered. The discovery is thus also intended to ferret out what appears to be baseless character assassination.

In re Convergent Technologies Securities Litigation recognized the importance of the identification of witnesses as a type of contention interrogatory that is appropriate. (Id. 108 F.R.D. at 332-333). This case, often cited for the frame work it provides related to contention interrogatories, also noted that the frame work does not apply to the identity of witnesses with knowledge of the facts giving rise to the litigation or documents supporting material factual allegations. (See Id.) The Court compelled the disclosure of the identity of witnesses early in litigation. (Id. 108 F.R.D. at 332-333).

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Judge Chapman in *Cable & Computer Tech., Inc.* first noted the purpose of

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Rule 1 of the Federal Rules of Civil Procedure directs that the rules "shall be construed to secure the just, speedy, and inexpensive determination of every action." "There probably is no provision in the federal rules that is more important than this mandate. It reflects the spirit in which the rules were conceived and written, and in which they should be, and by and large have been, interpreted..... The Supreme Court of the United States has stated that these rules 'are to be accorded a broad and liberal treatment'." *Trevino v. Celanese Corp*., 701 F.2d 397, 405 (5th Cir.1983) (citing *Hickman v. Taylor*, 329 U.S. 495, 507, 67 S.Ct. 385, 391, 91 L.Ed. 451 (1947) and *Schlagenhauf v. Holder*, 379 U.S. 104, 114–15, 85 S.Ct. 234, 240, 13 L.Ed.2d 152 (1964)). (*Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 650 (C.D. Cal. 1997).)

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> In *Convergent Technologies*, Judge Wayne D. Brazil, in a very thoughtful opinion, held that the 1983 amendments to Fed.R.Civ.P. 26(b) compelled his conclusion that the "wisest course is not to preclude entirely the early use of contention interrogatories, but to place a burden of justification on the party who seeks answers to these kinds of questions before substantial documentary or testimonial discovery has been completed.... [T]he propounding party must present specific, plausible grounds for believing that securing early answers to its contention questions will

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In fact Judge Chapman, instead of placing the burden on the party propounding the request in justifying the need for early discovery on such issues, found placing the burden on the party opposing responding to the request, as is done normally, was more appropriate. (See Id., 175 F.R.D. at 652.)

In this case, though, the requests made by Blakeman are appropriate no matter what analysis is applied to his alleged "contention interrogatories." The requests seek to identify witnesses. If Blakeman has the burden to show this is necessary he easily meets it as there is no way he can potentially defend his case, bring motions under Rule 56, or bring motions under Rule 11 without knowing the witnesses who supposedly support the allegations he is in a gang, that he commits intentional torts of criminal nature, or that he is engaged in some act of negligence. Alternatively, plaintiffs cannot show that they could even meet their burden in resisting disclosure of this information.

How could plaintiffs' bring such egregious allegations (i.e. assault, battery, violations of the Bane act) without having some witness to such acts by Mr. Blakeman let alone a witness who is a victim of such acts. This is compounded by the Plaintiffs' initial disclosures that list only one witness who has some vague unspecified knowledge about Blakeman.

Surely Mr. Blakeman, who is accused of such things, and has timely requested supporting information for these very specific allegations, should have the opportunity to know about and to depose the witnesses who allegedly support such allegations. Surely if no such persons exist then the lack of such evidence must be exposed. Failing to indicate whether such evidence exists or does not exists only serves to thwart the truth and the spirit of the Federal Rules of Civil Procedure.

Plaintiffs' objection is not a basis to avoid answering this interrogatory.

Plaintiffs' Contention

Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection. Plaintiffs are entitled to – and fully intend to – supplement their discovery responses when they "learn[] that in some material respect the disclosure or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally, Defendant Blakeman is in control of much of the information needed to respond to his contention interrogatories but, to date, has refused to produce any documents or videos in response to Plaintiffs' discovery requests and in violation of his obligations under Federal Rule 26(a).

1. Unduly Burdensome, Harassing, and Duplicative

Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the claims against Blakeman on the grounds that they already disclosed the names of potential witnesses in their initial and supplemental disclosures. Specifically, Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a number of whom likely witnessed the claims pertaining to Mr. Blakeman.

Mr. Blakeman already has the list of potential witnesses in his possession. Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs to be compelled to identify these witnesses again.

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2. Compound

Plaintiffs objected to Mr. Blakeman's requests to identify persons with knowledge of facts supporting their contentions and facts within each person's knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits a party to 25 interrogatories propounded on any other party, including all discrete subparts.

Courts have consistently concluded that an interrogatory that asks a party to identify facts, documents, and witnesses should count as separate interrogatories. See, e.g., *Makaeff v. Trump Univ.*, LLC, 2014 WL 3490356, at *7 (S.D. Cal. July 11, 2014) (concluding the interrogatory "contains 3 discrete subparts [for facts, documents, and witnesses,] and these subparts must be multiplied by the number of RFAs that were not unqualified admissions"); *Superior Commc'ns v. Earhugger, Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S. Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

Mr. Blakeman's attempt to subvert the rules by asking interrogatories containing multiple impermissible subparts is wholly improper and therefore Plaintiffs' objection on this ground was appropriate.

3. Information Outside Plaintiff's Knowledge

Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of witnesses to support their allegations. To the contrary, Plaintiffs have identified in their October 2, 2016, supplemental disclosures 105 witnesses who may possess knowledge of the allegations. Moreover, discovery in this matter is in its infancy. To the extent Plaintiffs identify additional witnesses who support their claims throughout the course of discovery in this matter, Plaintiffs are aware of their obligation under the Federal Rules to timely supplement their discovery and disclosures.

Plaintiffs' objection on the grounds that the interrogatories seek information outside their knowledge is an objection *only to the extent* that the information sought is outside the individually-responding Plaintiff's knowledge. Although Plaintiffs neglected to include the words "to the extent that" preceding these written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend their objections to include this wording, if the Court so orders.

4. Attorney-Client Privilege and Attorney Work Product Doctrine

Plaintiffs objected to the interrogatories *to the extent that* they invade the attorney-client privilege and/or the work product doctrine by compelling privileged communication and/or litigation strategy. These objections are worded such that either the attorney-client privilege or the attorney work product doctrine (or both) could protect the information from disclosure. The objections do not state that both privileges necessarily apply to each piece of information sought.

Furthermore, Plaintiffs do not claim that all information sought is privileged, as evidenced by the inclusion of "to the extent that" preceding these objections. Rather, Plaintiffs have applied the work product doctrine to protect trial preparation materials that reveal attorney strategy, intended lines of proof, evaluations of strengths and weaknesses, and inferences drawn from interviews. Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947). Plaintiffs have applied the attorney-client privilege to protect confidential communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156 (9th Cir. 2010).

5. Premature Contention Interrogatories

Plaintiffs objected to Mr. Blakeman's interrogatories as premature because they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v. Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2. This objection was proper.

Contention interrogatories need not be answered until discovery is "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held that discovery was not "substantially complete" when the discovery cutoff was 4 months away and depositions of fact witnesses or defendants had not yet occurred. The court opined that "[i]f Defendants had completed their document production, depositions were under way, and the discovery cutoff date was just a month or so away, Defendants ***might*** be entitled to the information they seek. But under the circumstances here, Defendants' interrogatories are premature." *Kmiec*, at *1 (emphasis added).

Similarly, the *Folz* court found that discovery was not substantially complete and the responding party had adequate time to supplement his answers when the discovery cutoff was 8 months away. *Folz*, at *3. Even the case Mr. Blakeman cited, *HTC Corp. v. Tech. Properties Ltd*., 2011 WL 97787 (N.D. Cal. Jan. 12, 2011), held that the responding party did not need to respond to contention interrogatories because discovery was "still in full-swing." *HTC Corp*., at *3.

In the instant lawsuit, the discovery cutoff is more than 9 months away, on August 7, 2017. None of the individual Defendants – including Mr. Blakeman – have produced any documents despite Plaintiffs' requests for production, and Plaintiff Cory Spencer only produced his first set of documents on November 4, 2016. Additionally, the parties have only taken 6 out of the 20 possible depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara, Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last month. Thus, it is clear that the parties are in the early stages of discovery. Discovery is far from being "substantially complete"; therefore, Plaintiffs need not respond to Defendant Blakeman's premature contention interrogatories.

10. IDENTIFY ALL PERSONS that have knowledge of any facts that support plaintiffs' Sixth Cause of Action in the Complaint (Assault) against

BRANT BLAKEMAN, and for each such PERSON identified state all facts you contend are within that PERSON's knowledge.

Plaintiffs' Response to Interrogatory #10

Responding party objects to this interrogatory as unduly burdensome, harassing, and duplicative of information disclosed in Responding Party's Rule 26(a) disclosures and supplemental disclosures. Propounding Party may look to Responding Party's Rule 26(a) disclosures and supplemental disclosures for the information sought by this interrogatory. Moreover, Responding Party had the opportunity to depose Mr. Spencer on this topic.

Responding party further objects to this interrogatory as compound. This "interrogatory" contains multiple impermissible subparts, which Propounding Party has propounded in an effort to circumvent the numerical limitations on interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

Responding Party further objects to this interrogatory on the grounds that it seeks information that is outside of Responding Party's knowledge.

Responding Party further objects to the extent that this interrogatory invades attorney-client privilege and/or violates the work product doctrine by compelling Responding Party to disclose privileged communications and/or litigation strategy. Responding Party will not provide any such information.

Responding Party further objects to this interrogatory as premature. Because this interrogatory seeks or necessarily relies upon a contention, and because this matter is in its early stages and pretrial discovery has only just begun, Responding Party is unable to provide a complete response at this time, nor is it required to do so. See *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31 2014) at *1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may order that [a contention] interrogatory need not be answered until designated discovery is complete, or until a pretrial conference or some other time.").

Based on the foregoing objections, Responding Party will not respond to this interrogatory at this time.

Defendant Brant Blakeman's Contention

The Interrogatory seeks witness information pertaining to any and all persons who plaintiffs claim support a specific contention made against Brant Blakeman in his personal capacity, not as a member of a group but as an individual.

The interrogatories at issue merely seek the identification of witnesses and the identification of the facts believed to be within those witnesses knowledge purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his personal capacity.

The discovery requests defined "BRANT BLAKEMAN" as follows:

> BRANT BLAKEMAN means only Brant Blakeman in his individual capacity. This definition expressly excludes Brant Blakeman as an alleged member of what plaintiff alleges are the "Lunada Bay Boys." This definition expressly excludes the actions or omissions of any other PERSON other than Brant Blakeman in his individual capacity. This definition expressly excludes acts of PERSONS other than Brant Blakeman that plaintiff attributes to Brant Blakeman under a theory of Civil Conspiracy.

Failure to produce the information sought by the Interrogatory is intended only to prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely hoping to take while he is unprepared in his defense to plaintiffs' contentions against him.

The response offers only uniform boilerplate objections. Based on those objections, the response asserts that no answers to the requests will be provided. Because the objections are unmeritorious, a further, substantive response must be

compelled.

1. Undue Burden, Harassment, and Duplication

Plaintiff contends that identifying the witnesses to the claims against Mr. Blakeman is unduly burdensome and harassing and the information can be found in the initial and supplemental disclosures. Plaintiffs in their initial disclosure identify only one witness with potential knowledge concerning Mr. Blakeman, Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry presented by this Interrogatory, then it certainly strains reason that answering it is burdensome or harassing. If there are other witnesses that allege Mr. Blakeman did some act those witnesses likewise should be identified.

This objection by plaintiff is not a justification to refuse to provide a response to the interrogatory.

2. The Interrogatory is Compound and has Subparts

Plaintiff contends the Interrogatory is designed to circumvent the numerical limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit. The Interrogatory seeks the identification of a witness and the facts within that witnesses knowledge. FRCP Rule 33 allows the interrogatories to include "discrete subparts." Seeking the identification of witnesses and the facts within their knowledge are considered one interrogatory. (See *Chapman v. California Dept. of Educ.*, 2002 WL 32854376, at *1 (N.D.Cal.,2002)). For sake of mathematical exercise, even were one to entertain the contention that the Interrogatory did not contain discrete subparts, there are only two: 12 interrogatories multiplied by two equals 24, which is within the limits of FRCP Rule 33 which allows for 25 interrogatories.

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatory.

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3. The Interrogatory Seeks Information that is Outside of Responding Party's Knowledge

Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's knowledge. This objection either wholly lacks merit or there are very troubling issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

How is it that plaintiff can bring such egregious allegations without some personal knowledge of witnesses who will support the allegations (including the plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing expedition against Mr. Blakeman and they were in violation of Rule 11 when the complaint was filed? If plaintiff does not have knowledge the identity of witnesses that support allegations, the response should merely state there are none. Otherwise the witnesses should be identified.

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatories.

4. The Interrogatory Invades the Attorney Client Privilege and Attorney Work Product Doctrine

Plaintiff objects that identifying witnesses and the facts within a witnesses knowledge that supports allegations that Mr. Blakeman acted in some manner invades the attorney client privilege. There is no legal support for withholding witnesses identities based on the attorney client privilege. Personal knowledge about facts are not privileged. "[T]he protection of the privilege extends only to communications and not to facts. A fact is one thing and a communication concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct. 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatory.

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5. The Interrogatory is Premature as a Contention Interrogatory

Plaintiff alleges the Interrogatory seeks a contention and due to the early state of litigation and pre-trial discovery, responding party is unable to provide a complete response and, in any event, it is required to so; citing to *Kmiec v. Powerwave Techs. Inc. et al*., 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31 2014) at *1-2.; and FRCP Rule 33(a)(2).

While this is an argument that contention interrogatories can be delayed, the subject interrogatories do not fall into that context; the responding party is the party making the allegations, not the one responding to the allegations.

This action involves plaintiffs (bound by their own pleading) in their individual capacities, as well as representative capacities, alleging intentional torts, nuisance, and negligence against Mr. Blakeman. The allegations against Mr. Blakeman which each of these plaintiffs make include accusation of involvement in "predicate crimes" which include, for example, murder, mayhem, counterfeiting, rape and similar egregious crimes. Having made these allegations Plaintiffs must have some idea of the witnesses, documents or facts to support the allegations. Plaintiffs' counsel must also have some basis else they run afoul of Rule 11.

No substantive responses are provided. It is likely that no basis exists for these allegations against Mr. Blakeman; he is entitled to know the basis before facing a deposition by ambush.

Plaintiffs' refusal is fatally flawed in any event. The cases cited are inapposite.

Kmeic was a securities litigation matter. In context, *Kmeic* reasoned that asking contention interrogatories to a shareholder plaintiff early in litigation required more time for the litigation to develop. Such is not the case with the issues involved in this litigation, where Plaintiffs each claim to represent a class of people and make specific allegations against Mr. Blakeman for which (if pled

honestly) Plaintiffs alone have the supporting facts.

Folz related to contention interrogatories on defendant's affirmative defenses; something that clearly would involve significantly more discovery to develop than is the situation here where defendant is simply seeking information regarding contention's made by plaintiffs in their initial pleadings; seeking only the identification of witnesses that support plaintiffs' contentions that Mr. Blakeman committed some act. This information will allow Mr. Blakeman to depose such persons and to have a "just, speedy, and inexpensive determination [in this] action." (FRCP Rule 1.)

The identification of witnesses is important not only to Mr. Blakeman's defense but also because they would contribute meaningfully to narrow the scope of the issues in dispute, set up early settlement discussions, and expose the potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v. Technology Properties Ltd.*, 2011 WL 97787, at *2 (N.D.Cal.,2011) These factors are important in assessing whether it would be appropriate for the early use of contention interrogatories(See *In re Convergent Technologies Securities Litigation*, 108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue Rule 56 motions as there appears to be no evidence supporting the causes of action against him. It also appears that there is a lack of evidence to even support probable cause to pursue an action against him and a Rule 11 motion is likewise being considered. The discovery is thus also intended to ferret out what appears to be baseless character assassination.

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5. Premature Contention Interrogatories

Plaintiffs objected to Mr. Blakeman's interrogatories as premature because they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v. Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2. This objection was proper.

Contention interrogatories need not be answered until discovery is "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held that discovery was not "substantially complete" when the discovery cutoff was 4 months away and depositions of fact witnesses or defendants had not yet occurred. The court opined that "[i]f Defendants had completed their document production, depositions were under way, and the discovery cutoff date was just a month or so away, Defendants ***might*** be entitled to the information they seek. But under the circumstances here, Defendants' interrogatories are premature." *Kmiec*, at *1 (emphasis added).

Similarly, the *Folz* court found that discovery was not substantially complete and the responding party had adequate time to supplement his answers when the discovery cutoff was 8 months away. *Folz*, at *3. Even the case Mr. Blakeman cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12, 2011), held that the responding party did not need to respond to contention interrogatories because discovery was "still in full-swing." *HTC Corp.*, at *3.

In the instant lawsuit, the discovery cutoff is more than 9 months away, on August 7, 2017. None of the individual Defendants – including Mr. Blakeman – have produced any documents despite Plaintiffs' requests for production, and Plaintiff Cory Spencer only produced his first set of documents on November 4, 2016. Additionally, the parties have only taken 6 out of the 20 possible depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara, Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last month. Thus, it is clear that the parties are in the early stages of discovery. Discovery is far from being "substantially complete"; therefore, Plaintiffs need not respond to Defendant Blakeman's premature contention interrogatories.

11. IDENTIFY ALL PERSONS that have knowledge of any facts that support plaintiffs' Seventh Cause of Action in the Complaint (Battery) against BRANT BLAKEMAN, and for each such PERSON identified state all facts you contend are within that PERSON's knowledge.

Plaintiffs' Response to Interrogatory #11

Responding party objects to this interrogatory as unduly burdensome, harassing, and duplicative of information disclosed in Responding Party's Rule 26(a) disclosures and supplemental disclosures. Propounding Party may look to Responding Party's Rule 26(a) disclosures and supplemental disclosures for the information sought by this interrogatory. Moreover, Responding Party had the opportunity to depose Mr. Spencer on this topic.

Responding party further objects to this interrogatory as compound. This "interrogatory" contains multiple impermissible subparts, which Propounding Party has propounded in an effort to circumvent the numerical limitations on interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

Responding Party further objects to this interrogatory on the grounds that it seeks information that is outside of Responding Party's knowledge.

Responding Party further objects to the extent that this interrogatory invades attorney-client privilege and/or violates the work product doctrine by compelling Responding Party to disclose privileged communications and/or litigation strategy. Responding Party will not provide any such information.

Responding Party further objects to this interrogatory as premature. Because this interrogatory seeks or necessarily relies upon a contention, and because this matter is in its early stages and pretrial discovery has only just begun, Responding Party is unable to provide a complete response at this time, nor is it required to do so. See *Kmiec v. Powerwave Techs. Inc. et al*., 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31 2014) at *1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may order that [a contention] interrogatory need not be answered until designated discovery is complete, or until a pretrial conference or some other time.").

Based on the foregoing objections, Responding Party will not respond to this interrogatory at this time.

Defendant Brant Blakeman's Contention

The Interrogatory seeks witness information pertaining to any and all persons who plaintiffs claim support a specific contention made against Brant Blakeman in his personal capacity, not as a member of a group but as an individual.

The interrogatories at issue merely seek the identification of witnesses and the identification of the facts believed to be within those witnesses knowledge purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his personal capacity.

The discovery requests defined "BRANT BLAKEMAN" as follows:

> BRANT BLAKEMAN means only Brant Blakeman in his individual capacity. This definition expressly excludes Brant Blakeman as an alleged member of what plaintiff alleges are the "Lunada Bay Boys." This definition expressly excludes the actions or omissions of any other

> PERSON other than Brant Blakeman in his individual capacity. This definition expressly excludes acts of PERSONS other than Brant Blakeman that plaintiff attributes to Brant Blakeman under a theory of Civil Conspiracy.

Failure to produce the information sought by the Interrogatory is intended only to prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely hoping to take while he is unprepared in his defense to plaintiffs' contentions against him.

The response offers only uniform boilerplate objections. Based on those objections, the response asserts that no answers to the requests will be provided. Because the objections are unmeritorious, a further, substantive response must be compelled.

1. <u>Undue Burden, Harassment, and Duplication</u>

Plaintiff contends that identifying the witnesses to the claims against Mr. Blakeman is unduly burdensome and harassing and the information can be found in the initial and supplemental disclosures. Plaintiffs in their initial disclosure identify only one witness with potential knowledge concerning Mr. Blakeman, Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry presented by this Interrogatory, then it certainly strains reason that answering it is burdensome or harassing. If there are other witnesses that allege Mr. Blakeman did some act those witnesses likewise should be identified.

This objection by plaintiff is not a justification to refuse to provide a response to the interrogatory.

2. <u>The Interrogatory is Compound and has Subparts</u>

Plaintiff contends the Interrogatory is designed to circumvent the numerical limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit. The Interrogatory seeks the identification of a witness and the facts within that

witnesses knowledge. FRCP Rule 33 allows the interrogatories to include "discrete subparts." Seeking the identification of witnesses and the facts within their knowledge are considered one interrogatory. (See *Chapman v. California Dept. of Educ.*, 2002 WL 32854376, at *1 (N.D.Cal.,2002)). For sake of mathematical exercise, even were one to entertain the contention that the Interrogatory did not contain discrete subparts, there are only two: 12 interrogatories multiplied by two equals 24, which is within the limits of FRCP Rule 33 which allows for 25 interrogatories.

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatory.

3. The Interrogatory Seeks Information that is Outside of Responding Party's Knowledge

Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's knowledge. This objection either wholly lacks merit or there are very troubling issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

How is it that plaintiff can bring such egregious allegations without some personal knowledge of witnesses who will support the allegations (including the plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing expedition against Mr. Blakeman and they were in violation of Rule 11 when the complaint was filed? If plaintiff does not have knowledge the identity of witnesses that support allegations, the response should merely state there are none. Otherwise the witnesses should be identified.

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatories.

4. The Interrogatory Invades the Attorney Client Privilege and Attorney Work Product Doctrine

Plaintiff objects that identifying witnesses and the facts within a witnesses knowledge that supports allegations that Mr. Blakeman acted in some manner

invades the attorney client privilege. There is no legal support for withholding witnesses identities based on the attorney client privilege. Personal knowledge about facts are not privileged. "[T]he protection of the privilege extends only to communications and not to facts. A fact is one thing and a communication concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct. 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatory.

5. The Interrogatory is Premature as a Contention Interrogatory

Plaintiff alleges the Interrogatory seeks a contention and due to the early state of litigation and pre-trial discovery, responding party is unable to provide a complete response and, in any event, it is required to so; citing to *Kmiec v. Powerwave Techs. Inc.* et al., 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31 2014) at *1-2.; and FRCP Rule 33(a)(2).

While this is an argument that contention interrogatories can be delayed, the subject interrogatories do not fall into that context; the responding party is the party making the allegations, not the one responding to the allegations.

This action involves plaintiffs (bound by their own pleading) in their individual capacities, as well as representative capacities, alleging intentional torts, nuisance, and negligence against Mr. Blakeman. The allegations against Mr. Blakeman which each of these plaintiffs make include accusation of involvement in "predicate crimes" which include, for example, murder, mayhem, counterfeiting, rape and similar egregious crimes. Having made these allegations Plaintiffs must have some idea of the witnesses, documents or facts to support the allegations. Plaintiffs' counsel must also have some basis else they run afoul of Rule 11.

No substantive responses are provided. It is likely that no basis exists for these allegations against Mr. Blakeman; he is entitled to know the basis before

facing a deposition by ambush.

Plaintiffs' refusal is fatally flawed in any event. The cases cited are inapposite.

Kmeic was a securities litigation matter. In context, *Kmeic* reasoned that asking contention interrogatories to a shareholder plaintiff early in litigation required more time for the litigation to develop. Such is not the case with the issues involved in this litigation, where Plaintiffs each claim to represent a class of people and make specific allegations against Mr. Blakeman for which (if pled honestly) Plaintiffs alone have the supporting facts.

Folz related to contention interrogatories on defendant's affirmative defenses; something that clearly would involve significantly more discovery to develop than is the situation here where defendant is simply seeking information regarding contention's made by plaintiffs in their initial pleadings; seeking only the identification of witnesses that support plaintiffs' contentions that Mr. Blakeman committed some act. This information will allow Mr. Blakeman to depose such persons and to have a "just, speedy, and inexpensive determination [in this] action." (FRCP Rule 1.)

The identification of witnesses is important not only to Mr. Blakeman's defense but also because they would contribute meaningfully to narrow the scope of the issues in dispute, set up early settlement discussions, and expose the potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v. Technology Properties Ltd.*, 2011 WL 97787, at *2 (N.D.Cal.,2011) These factors are important in assessing whether it would be appropriate for the early use of contention interrogatories(See *In re Convergent Technologies Securities Litigation*, 108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue Rule 56 motions as there appears to be no evidence supporting the causes of action against him. It also appears that there is a lack of evidence to even support probable cause to pursue an action against him and a Rule 11 motion is likewise

being considered. The discovery is thus also intended to ferret out what appears to be baseless character assassination.

In re Convergent Technologies Securities Litigation recognized the importance of the identification of witnesses as a type of contention interrogatory that is appropriate. (Id. 108 F.R.D. at 332-333). This case, often cited for the frame work it provides related to contention interrogatories, also noted that the frame work does not apply to the identity of witnesses with knowledge of the facts giving rise to the litigation or documents supporting material factual allegations. (See Id.) The Court compelled the disclosure of the identity of witnesses early in litigation. (Id. 108 F.R.D. at 332-333).

The *In re Convergent Technologies Securities Litigation* frame work to be applied to contention interrogatories has been examined in the Central District of California in *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 651 (C.D. Cal. 1997). This Court, in Cable & Computer Tech., Inc., explicated the evolution of the analysis of when contention interrogatories were appropriate.

Judge Chapman in *Cable & Computer Tech., Inc.* first noted the purpose of the Federal Rules of Civil Procedure.

Rule 1 of the Federal Rules of Civil Procedure directs that the rules "shall be construed to secure the just, speedy, and inexpensive determination of every action." "There probably is no provision in the federal rules that is more important than this mandate. It reflects the spirit in which the rules were conceived and written, and in which they should be, and by and large have been, interpreted..... The Supreme Court of the United States has stated that these rules 'are to be accorded a broad and liberal treatment'." *Trevino v. Celanese Corp.*, 701 F.2d 397, 405 (5th Cir.1983) (citing *Hickman v. Taylor*, 329 U.S. 495, 507, 67 S.Ct. 385, 391, 91 L.Ed. 451 (1947) and *Schlagenhauf v. Holder*, 379 U.S. 104, 114–15, 85 S.Ct. 234, 240, 13 L.Ed.2d 152 (1964)). (*Cable & Computer Tech., Inc. v.*

Lockheed Saunders, Inc., 175 F.R.D. 646, 650 (C.D. Cal. 1997).)

Judge Chapman allayed concerns about early use of contention interrogatories and recognized that contention interrogatories are allowed under the Federal Rules of Civil Procedure. Any concern about limiting proof based on limited answers to interrogatories is not well-founded because such answers may be withdrawn or amended, and parties have an ongoing obligation to "seasonably amend" answers throughout the litigation. (See Id., 175 F.D.R. at 650-651.)

Judge Chapman then noted that Judge Brazil, the author of *In re Convergent Technologies Securities Litigation*, had recently even acknowledged the importance of early use of contention interrogatories in certain matters:

> In *Convergent Technologies*, Judge Wayne D. Brazil, in a very thoughtful opinion, held that the 1983 amendments to Fed.R.Civ.P. 26(b) compelled his conclusion that the "wisest course is not to preclude entirely the early use of contention interrogatories, but to place a burden of justification on the party who seeks answers to these kinds of questions before substantial documentary or testimonial discovery has been completed.... [T]he propounding party must present specific, plausible grounds for believing that securing early answers to its contention questions will materially advance the goals of the Federal Rules of Civil Procedure." 108 F.R.D. at 338–39. More recently, however, Judge Brazil has modified his position, noting that contention interrogatories may in certain cases be the most reliable and cost-effective discovery device, which would be less burdensome than depositions at which contention questions are propounded. *See McCormick–Morgan, Inc. v. Teledyne Industries, Inc.*, 134 F.R.D. 275, 287 (N.D.Cal.1991) (holding appropriately framed and timed contention interrogatories rather than depositions in patent infringement action was most appropriate vehicle for establishing infringers' contentions). *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 651–52 (C.D. Cal. 1997).

In fact Judge Chapman, instead of placing the burden on the party propounding the request in justifying the need for early discovery on such issues, found placing the burden on the party opposing responding to the request, as is done normally, was more appropriate. (See Id., 175 F.R.D. at 652.)

In this case, though, the requests made by Blakeman are appropriate no matter what analysis is applied to his alleged "contention interrogatories." The

requests seek to identify witnesses. If Blakeman has the burden to show this is necessary he easily meets it as there is no way he can potentially defend his case, bring motions under Rule 56, or bring motions under Rule 11 without knowing the witnesses who supposedly support the allegations he is in a gang, that he commits intentional torts of criminal nature, or that he is engaged in some act of negligence. Alternatively, plaintiffs cannot show that they could even meet their burden in resisting disclosure of this information.

How could plaintiffs bring such egregious allegations (i.e. assault, battery, violations of the Bane act) without having some witness to such acts by Mr. Blakeman let alone a witness who is a victim of such acts. This is compounded by the Plaintiffs' initial disclosures that list only one witness who has some vague unspecified knowledge about Blakeman.

Surely Mr. Blakeman, who is accused of such things, and has timely requested supporting information for these very specific allegations, should have the opportunity to know about and to depose the witnesses who allegedly support such allegations. Surely if no such persons exist then the lack of such evidence must be exposed. Failing to indicate whether such evidence exists or does not exists only serves to thwart the truth and the spirit of the Federal Rules of Civil Procedure.

Plaintiffs' objection is not a basis to avoid answering this interrogatory.

Plaintiffs' Contention

Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection. Plaintiffs are entitled to – and fully intend to – supplement their discovery responses when they "learn[] that in some material respect the disclosure or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally, Defendant Blakeman is in control of much of the information needed to respond to his contention interrogatories but, to date, has refused to produce any documents or

videos in response to Plaintiffs' discovery requests and in violation of his obligations under Federal Rule 26(a).

1. Unduly Burdensome, Harassing, and Duplicative

Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the claims against Blakeman on the grounds that they already disclosed the names of potential witnesses in their initial and supplemental disclosures. Specifically, Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a number of whom likely witnessed the claims pertaining to Mr. Blakeman.

Mr. Blakeman already has the list of potential witnesses in his possession. Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs to be compelled to identify these witnesses again.

2. Compound

Plaintiffs objected to Mr. Blakeman's requests to identify persons with knowledge of facts supporting their contentions and facts within each person's knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits a party to 25 interrogatories propounded on any other party, including all discrete subparts.

Courts have consistently concluded that an interrogatory that asks a party to identify facts, documents, and witnesses should count as separate interrogatories. See, e.g., *Makaeff v. Trump Univ.*, LLC, 2014 WL 3490356, at *7 (S.D. Cal. July 11, 2014) (concluding the interrogatory "contains 3 discrete subparts [for facts, documents, and witnesses,] and these subparts must be multiplied by the number of RFAs that were not unqualified admissions"); *Superior Commc'ns v. Earhugger, Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S. Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

Mr. Blakeman's attempt to subvert the rules by asking interrogatories containing multiple impermissible subparts is wholly improper and therefore

Plaintiffs' objection on this ground was appropriate.

3. Information Outside Plaintiff's Knowledge

Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of witnesses to support their allegations. To the contrary, Plaintiffs have identified in their October 2, 2016, supplemental disclosures 105 witnesses who may possess knowledge of the allegations. Moreover, discovery in this matter is in its infancy. To the extent Plaintiffs identify additional witnesses who support their claims throughout the course of discovery in this matter, Plaintiffs are aware of their obligation under the Federal Rules to timely supplement their discovery and disclosures.

Plaintiffs' objection on the grounds that the interrogatories seek information outside their knowledge is an objection *only to the extent* that the information sought is outside the individually-responding Plaintiff's knowledge. Although Plaintiffs neglected to include the words "to the extent that" preceding these written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend their objections to include this wording, if the Court so orders.

4. Attorney-Client Privilege and Attorney Work Product Doctrine

Plaintiffs objected to the interrogatories *to the extent that* they invade the attorney-client privilege and/or the work product doctrine by compelling privileged communication and/or litigation strategy. These objections are worded such that either the attorney-client privilege or the attorney work product doctrine (or both) could protect the information from disclosure. The objections do not state that both privileges necessarily apply to each piece of information sought.

Furthermore, Plaintiffs do not claim that all information sought is privileged, as evidenced by the inclusion of "to the extent that" preceding these objections. Rather, Plaintiffs have applied the work product doctrine to protect trial preparation materials that reveal attorney strategy, intended lines of proof,

evaluations of strengths and weaknesses, and inferences drawn from interviews. Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947). Plaintiffs have applied the attorney-client privilege to protect confidential communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156 (9th Cir. 2010).

5. Premature Contention Interrogatories

Plaintiffs objected to Mr. Blakeman's interrogatories as premature because they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v. Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2. This objection was proper.

Contention interrogatories need not be answered until discovery is "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held that discovery was not "substantially complete" when the discovery cutoff was 4 months away and depositions of fact witnesses or defendants had not yet occurred. The court opined that "[i]f Defendants had completed their document production, depositions were under way, and the discovery cutoff date was just a month or so away, Defendants ***might*** be entitled to the information they seek. But under the circumstances here, Defendants' interrogatories are premature." *Kmiec*, at *1 (emphasis added).

Similarly, the *Folz* court found that discovery was not substantially complete and the responding party had adequate time to supplement his answers when the discovery cutoff was 8 months away. *Folz*, at *3. Even the case Mr. Blakeman cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12, 2011), held that the responding party did not need to respond to contention interrogatories because discovery was "still in full-swing." *HTC Corp.*, at *3.

In the instant lawsuit, the discovery cutoff is more than 9 months away, on August 7, 2017. None of the individual Defendants – including Mr. Blakeman –

have produced any documents despite Plaintiffs' requests for production, and Plaintiff Cory Spencer only produced his first set of documents on November 4, 2016. Additionally, the parties have only taken 6 out of the 20 possible depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara, Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last month. Thus, it is clear that the parties are in the early stages of discovery. Discovery is far from being "substantially complete"; therefore, Plaintiffs need not respond to Defendant Blakeman's premature contention interrogatories.

12. IDENTIFY ALL PERSONS that have knowledge of any facts that support plaintiffs' Eighth Cause of Action in the Complaint (Negligence) against BRANT BLAKEMAN, and for each such PERSON identified state all facts you contend are within that PERSON's knowledge.

Plaintiffs' Response to Interrogatory #12

Responding party objects to this interrogatory as unduly burdensome, harassing, and duplicative of information disclosed in Responding Party's Rule 26(a) disclosures and supplemental disclosures. Propounding Party may look to Responding Party's Rule 26(a) disclosures and supplemental disclosures for the information sought by this interrogatory. Moreover, Responding Party had the opportunity to depose Mr. Spencer on this topic.

Responding party further objects to this interrogatory as compound. This "interrogatory" contains multiple impermissible subparts, which Propounding Party has propounded in an effort to circumvent the numerical limitations on interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

Responding Party further objects to this interrogatory on the grounds that it seeks information that is outside of Responding Party's knowledge.

Responding Party further objects to the extent that this interrogatory invades attorney-client privilege and/or violates the work product doctrine by compelling

Responding Party to disclose privileged communications and/or litigation strategy. Responding Party will not provide any such information.

Responding Party further objects to this interrogatory as premature. Because this interrogatory seeks or necessarily relies upon a contention, and because this matter is in its early stages and pretrial discovery has only just begun, Responding Party is unable to provide a complete response at this time, nor is it required to do so. See *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31 2014) at *1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may order that [a contention] interrogatory need not be answered until designated discovery is complete, or until a pretrial conference or some other time.").

Based on the foregoing objections, Responding Party will not respond to this interrogatory at this time.

Defendant Brant Blakeman's Contention

The Interrogatory seeks witness information pertaining to any and all persons who plaintiffs claim support a specific contention made against Brant Blakeman in his personal capacity, not as a member of a group but as an individual.

The interrogatories at issue merely seek the identification of witnesses and the identification of the facts believed to be within those witnesses knowledge purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his personal capacity.

The discovery requests defined "BRANT BLAKEMAN" as follows:

> BRANT BLAKEMAN means only Brant Blakeman in his individual capacity. This definition expressly excludes Brant Blakeman as an alleged member of what plaintiff alleges are the "Lunada Bay Boys." This definition expressly excludes the actions or omissions of any other PERSON other than Brant Blakeman in his individual capacity. This definition expressly excludes acts of

PERSONS other than Brant Blakeman that plaintiff attributes to Brant Blakeman under a theory of Civil Conspiracy.

Failure to produce the information sought by the Interrogatory is intended only to prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely hoping to take while he is unprepared in his defense to plaintiffs' contentions against him.

The response offers only uniform boilerplate objections. Based on those objections, the response asserts that no answers to the requests will be provided. Because the objections are unmeritorious, a further, substantive response must be compelled.

1. Undue Burden, Harassment, and Duplication

Plaintiff contends that identifying the witnesses to the claims against Mr. Blakeman is unduly burdensome and harassing and the information can be found in the initial and supplemental disclosures. Plaintiffs in their initial disclosure identify only one witness with potential knowledge concerning Mr. Blakeman, Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry presented by this Interrogatory, then it certainly strains reason that answering it is burdensome or harassing. If there are other witnesses that allege Mr. Blakeman did some act those witnesses likewise should be identified.

This objection by plaintiff is not a justification to refuse to provide a response to the interrogatory.

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2. The Interrogatory is Compound and has Subparts

Plaintiff contends the Interrogatory is designed to circumvent the numerical limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit. The Interrogatory seeks the identification of a witness and the facts within that witnesses knowledge. FRCP Rule 33 allows the interrogatories to include "discrete subparts." Seeking the identification of witnesses and the facts within their knowledge are considered one interrogatory. (See *Chapman v. California Dept. of Educ.*, 2002 WL 32854376, at *1 (N.D.Cal.,2002)). For sake of mathematical exercise, even were one to entertain the contention that the Interrogatory did not contain discrete subparts, there are only two: 12 interrogatories multiplied by two equals 24, which is within the limits of FRCP Rule 33 which allows for 25 interrogatories.

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How is it that plaintiff can bring such egregious allegations without some personal knowledge of witnesses who will support the allegations (including the plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing expedition against Mr. Blakeman and they were in violation of Rule 11 when the complaint was filed? If plaintiff does not have knowledge the identity of witnesses that support allegations, the response should merely state there are none. Otherwise the witnesses should be identified.

This objection by plaintiff is not a justification to refuse to provide a response to the Interrogatories.

4. The Interrogatory Invades the Attorney Client Privilege and Attorney Work Product Doctrine

Plaintiff objects that identifying witnesses and the facts within a witnesses knowledge that supports allegations that Mr. Blakeman acted in some manner invades the attorney client privilege. There is no legal support for withholding witnesses identities based on the attorney client privilege. Personal knowledge about facts are not privileged. "[T]he protection of the privilege extends only to communications and not to facts. A fact is one thing and a communication concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct. 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

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While this is an argument that contention interrogatories can be delayed, the subject interrogatories do not fall into that context; the responding party is the party making the allegations, not the one responding to the allegations.

This action involves plaintiffs (bound by their own pleading) in their individual capacities, as well as representative capacities, alleging intentional torts, nuisance, and negligence against Mr. Blakeman. The allegations against Mr. Blakeman which each of these plaintiffs make include accusation of involvement in “predicate crimes” which include, for example, murder, mayhem, counterfeiting, rape and similar egregious crimes. Having made these allegations Plaintiffs must

have some idea of the witnesses, documents or facts to support the allegations. Plaintiffs' counsel must also have some basis else they run afoul of Rule 11.

No substantive responses are provided. It is likely that no basis exists for these allegations against Mr. Blakeman; he is entitled to know the basis before facing a deposition by ambush.

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Folz related to contention interrogatories on defendant's affirmative defenses; something that clearly would involve significantly more discovery to develop than is the situation here where defendant is simply seeking information regarding contention's made by plaintiffs in their initial pleadings; seeking only the identification of witnesses that support plaintiffs' contentions that Mr. Blakeman committed some act. This information will allow Mr. Blakeman to depose such persons and to have a "just, speedy, and inexpensive determination [in this] action." (FRCP Rule 1.)

The identification of witnesses is important not only to Mr. Blakeman's defense but also because they would contribute meaningfully to narrow the scope of the issues in dispute, set up early settlement discussions, and expose the potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v. Technology Properties Ltd.*, 2011 WL 97787, at *2 (N.D.Cal.,2011) These factors are important in assessing whether it would be appropriate for the early use of contention interrogatories(See *In re Convergent Technologies Securities Litigation*,

108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue Rule 56 motions as there appears to be no evidence supporting the causes of action against him. It also appears that there is a lack of evidence to even support probable cause to pursue an action against him and a Rule 11 motion is likewise being considered. The discovery is thus also intended to ferret out what appears to be baseless character assassination.

In re Convergent Technologies Securities Litigation recognized the importance of the identification of witnesses as a type of contention interrogatory that is appropriate. (Id. 108 F.R.D. at 332-333). This case, often cited for the frame work it provides related to contention interrogatories, also noted that the frame work does not apply to the identity of witnesses with knowledge of the facts giving rise to the litigation or documents supporting material factual allegations. (See Id.) The Court compelled the disclosure of the identity of witnesses early in litigation. (Id. 108 F.R.D. at 332-333).

The *In re Convergent Technologies Securities Litigation* frame work to be applied to contention interrogatories has been examined in the Central District of California in *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 651 (C.D. Cal. 1997). This Court, in *Cable & Computer Tech., Inc.*, explicated the evolution of the analysis of when contention interrogatories were appropriate.

Judge Chapman in *Cable & Computer Tech., Inc.* first noted the purpose of the Federal Rules of Civil Procedure. Rule 1 of the Federal Rules of Civil Procedure directs that the rules "shall be construed to secure the just, speedy, and inexpensive determination of every action." "There probably is no provision in the federal rules that is more important than this mandate. It reflects the spirit in which the rules were conceived and written, and in which they should be, and by and large have been, interpreted..... The Supreme Court of the United States has stated that these rules 'are to be accorded a broad and liberal treatment'." *Trevino v.*

Celanese Corp., 701 F.2d 397, 405 (5th Cir.1983) (citing *Hickman v. Taylor*, 329 U.S. 495, 507, 67 S.Ct. 385, 391, 91 L.Ed. 451 (1947) and *Schlagenhauf v. Holder*, 379 U.S. 104, 114–15, 85 S.Ct. 234, 240, 13 L.Ed.2d 152 (1964)). (Cable & *Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 650 (C.D. Cal. 1997).)

Judge Chapman allayed concerns about early use of contention interrogatories and recognized that contention interrogatories are allowed under the Federal Rules of Civil Procedure. Any concern about limiting proof based on limited answers to interrogatories is not well-founded because such answers may be withdrawn or amended, and parties have an ongoing obligation to "seasonably amend" answers throughout the litigation. (See Id., 175 F.D.R. at 650-651.)

Judge Chapman then noted that Judge Brazil, the author of *In re Convergent Technologies Securities Litigation*, had recently even acknowledged the importance of early use of contention interrogatories in certain matters:

> In *Convergent Technologies*, Judge Wayne D. Brazil, in a very thoughtful opinion, held that the 1983 amendments to Fed.R.Civ.P. 26(b) compelled his conclusion that the "wisest course is not to preclude entirely the early use of contention interrogatories, but to place a burden of justification on the party who seeks answers to these kinds of questions before substantial documentary or testimonial discovery has been completed.... [T]he propounding party must present specific, plausible grounds for believing that securing early answers to its contention questions will materially advance the goals of the Federal Rules of Civil Procedure." 108 F.R.D. at 338–39. More recently, however, Judge Brazil has modified his position, noting that contention interrogatories may in certain cases be the most reliable and cost-effective discovery device, which would be less burdensome than depositions at which contention questions are propounded. See McCormick–*Morgan, Inc. v. Teledyne Industries, Inc.*, 134 F.R.D. 275, 287 (N.D.Cal.1991) (holding appropriately framed and timed contention interrogatories rather than depositions in patent infringement action was most appropriate vehicle for establishing infringers' contentions). *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 651–52 (C.D. Cal. 1997).

In fact Judge Chapman, instead of placing the burden on the party propounding the request in justifying the need for early discovery on such issues, found placing the burden on the party opposing responding to the request, as is done normally, was more appropriate. (See Id., 175 F.R.D. at 652.)

In this case, though, the requests made by Blakeman are appropriate no matter what analysis is applied to his alleged "contention interrogatories." The requests seek to identify witnesses. If Blakeman has the burden to show this is necessary he easily meets it as there is no way he can potentially defend his case, bring motions under Rule 56, or bring motions under Rule 11 without knowing the witnesses who supposedly support the allegations he is in a gang, that he commits intentional torts of criminal nature, or that he is engaged in some act of negligence. Alternatively, plaintiffs cannot show that they could even meet their burden in resisting disclosure of this information.

How could plaintiffs' bring such egregious allegations (i.e. assault, battery, violations of the Bane act) without having some witness to such acts by Mr. Blakeman let alone a witness who is a victim of such acts. This is compounded by the Plaintiffs' initial disclosures that list only one witness who has some vague unspecified knowledge about Blakeman.

Surely Mr. Blakeman, who is accused of such things, and has timely requested supporting information for these very specific allegations, should have the opportunity to know about and to depose the witnesses who allegedly support such allegations. Surely if no such persons exist then the lack of such evidence must be exposed. Failing to indicate whether such evidence exists or does not exists only serves to thwart the truth and the spirit of the Federal Rules of Civil Procedure.

Plaintiffs' objection is not a basis to avoid answering this interrogatory.

Plaintiffs' Contention

Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy

Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection. Plaintiffs are entitled to – and fully intend to – supplement their discovery responses when they "learn[] that in some material respect the disclosure or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally, Defendant Blakeman is in control of much of the information needed to respond to his contention interrogatories but, to date, has refused to produce any documents or videos in response to Plaintiffs' discovery requests and in violation of his obligations under Federal Rule 26(a).

1. Unduly Burdensome, Harassing, and Duplicative

Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the claims against Blakeman on the grounds that they already disclosed the names of potential witnesses in their initial and supplemental disclosures. Specifically, Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a number of whom likely witnessed the claims pertaining to Mr. Blakeman.

Mr. Blakeman already has the list of potential witnesses in his possession. Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs to be compelled to identify these witnesses again.

2. Compound

Plaintiffs objected to Mr. Blakeman's requests to identify persons with knowledge of facts supporting their contentions and facts within each person's knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits a party to 25 interrogatories propounded on any other party, including all discrete subparts.

Courts have consistently concluded that an interrogatory that asks a party to identify facts, documents, and witnesses should count as separate interrogatories. See, e.g., *Makaeff v. Trump Univ.*, LLC, 2014 WL 3490356, at *7 (S.D. Cal. July 11, 2014) (concluding the interrogatory "contains 3 discrete subparts [for facts, documents, and witnesses,] and these subparts must be multiplied by the number of

RFAs that were not unqualified admissions"); *Superior Commc'ns v. Earhugger, Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S. Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

Mr. Blakeman's attempt to subvert the rules by asking interrogatories containing multiple impermissible subparts is wholly improper and therefore Plaintiffs' objection on this ground was appropriate.

3. Information Outside Plaintiff's Knowledge

Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of witnesses to support their allegations. To the contrary, Plaintiffs have identified in their October 2, 2016, supplemental disclosures 105 witnesses who may possess knowledge of the allegations. Moreover, discovery in this matter is in its infancy. To the extent Plaintiffs identify additional witnesses who support their claims throughout the course of discovery in this matter, Plaintiffs are aware of their obligation under the Federal Rules to timely supplement their discovery and disclosures.

Plaintiffs' objection on the grounds that the interrogatories seek information outside their knowledge is an objection *only to the extent* that the information sought is outside the individually-responding Plaintiff's knowledge. Although Plaintiffs neglected to include the words "to the extent that" preceding these written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend their objections to include this wording, if the Court so orders.

4. Attorney-Client Privilege and Attorney Work Product Doctrine

Plaintiffs objected to the interrogatories *to the extent that* they invade the attorney-client privilege and/or the work product doctrine by compelling privileged communication and/or litigation strategy. These objections are worded such that either the attorney-client privilege or the attorney work product doctrine (or both)

could protect the information from disclosure. The objections do not state that both privileges necessarily apply to each piece of information sought.

Furthermore, Plaintiffs do not claim that all information sought is privileged, as evidenced by the inclusion of "to the extent that" preceding these objections. Rather, Plaintiffs have applied the work product doctrine to protect trial preparation materials that reveal attorney strategy, intended lines of proof, evaluations of strengths and weaknesses, and inferences drawn from interviews. Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947). Plaintiffs have applied the attorney-client privilege to protect confidential communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156 (9th Cir. 2010).

5. Premature Contention Interrogatories

Plaintiffs objected to Mr. Blakeman's interrogatories as premature because they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v. Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2. This objection was proper.

Contention interrogatories need not be answered until discovery is "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held that discovery was not "substantially complete" when the discovery cutoff was 4 months away and depositions of fact witnesses or defendants had not yet occurred. The court opined that "[i]f Defendants had completed their document production, depositions were under way, and the discovery cutoff date was just a month or so away, Defendants ***might*** be entitled to the information they seek. But under the circumstances here, Defendants' interrogatories are premature." *Kmiec*, at *1 (emphasis added).

Similarly, the *Folz* court found that discovery was not substantially complete and the responding party had adequate time to supplement his answers when the

discovery cutoff was 8 months away. *Folz*, at *3. Even the case Mr. Blakeman cited, *HTC Corp. v. Tech. Properties Ltd*., 2011 WL 97787 (N.D. Cal. Jan. 12, 2011), held that the responding party did not need to respond to contention interrogatories because discovery was "still in full-swing." *HTC Corp*., at *3.

In the instant lawsuit, the discovery cutoff is more than 9 months away, on August 7, 2017. None of the individual Defendants – including Mr. Blakeman – have produced any documents despite Plaintiffs' requests for production, and Plaintiff Cory Spencer only produced his first set of documents on November 4, 2016. Additionally, the parties have only taken 6 out of the 20 possible depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara, Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last month. Thus, it is clear that the parties are in the early stages of discovery. Discovery is far from being "substantially complete"; therefore, Plaintiffs need not respond to Defendant Blakeman's premature contention interrogatories.

DOCUMENT REQUESTS

Please identify and produce:

1. Any and all DOCUMENTS that support your contention that any BRANT BLAKEMAN participated in any way in the "commission of enumerated 'predicate crimes'" as alleged in paragraph 5 of the Complaint.

Plaintiffs' Response to Document Request #1

Responding Party objects to this request for production as premature. Because this request for production necessarily relies upon a contention, and because this matter is in its early stages and pretrial discovery has only just begun, Responding Party is unable to provide a complete response at this time, nor is required to do so. *See Kmiec v. Powerwave Techs. Inc et al*. 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; see also *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2.

Responding Party further objects to this request on the grounds that it

violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to "describe with reasonable particularity each item of category of items to be inspected." Propounding Party's request for production do not describe an item or category of items with reasonable particularity.

Responding Party further objects to the extent that this request for production invades attorney-client privilege and/or violates the work product doctrine by compelling Responding Party to disclose privileged communications and/or litigation strategy. Responding Party will not provide any such information.

Subject to and without waiver of the foregoing objections, Responding party responds as follows:

Responding Party will produce all responsive documents within its possession, custody, or control.

Defendant Brant Blakeman's Contention

The production request seeks documents that support plaintiff's specific contention made against Brant Blakeman in his personal capacity, not as a member of a group but as an individual. No documents have been produced despite the response's assertion that responsive documents would be produced in response to Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

Failure to produce the information sought by the Request is intended only to prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely hoping to take while he is unprepared in his defense to plaintiffs' contentions against him.

The objections made in this response are largely without merit and it is unknown if any information is being withheld based on the objections. If responsive material is being withheld based on any such objection, the response must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the part of the request being objected to. (Ibid.) No such indication is made in the response.

Most importantly, the objections lack merit:

1. The Production Request is Premature as Seeking information Related to "Contentions"

Plaintiff objects that producing the information supporting its contentions is premature on the same basis as it relates to contentions. The response cites to the *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address "contention" production requests. To the contrary, the Court in *In re Convergent Technologies Securities Litigation* expressly noted that the analysis applied to when contention interrogatories needed be answered does not apply to production requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333 ["Nor do the generalizations articulated here apply to Rule 34 requests for documents that bear on material factual allegations."]). The request at issue here bears on material factual allegations plaintiff has made against Mr. Blakeman. Material facts are discoverable at the outset of litigation and these facts are certainly not ones that would be in the control of defendant.

Plaintiffs have had an opportunity through informal requests from the City of Palos Verdes and in discovery in this litigation to obtain literally thousands of police records related to the subject matter of this lawsuit. In initial disclosures Plaintiffs have identified hundreds of witnesses and copious documents that purportedly support their case. There is no basis in law for plaintiff to not now, at this phase of discovery in the litigation, not identify those specific documents that support any specific liability contentions as it applies to Mr. Blakeman as an individual. He is entitled to know precisely each liability contention - and any documents that support such contention - that is being made against him so that he may appropriately defend against them.

The objection wholly lacks merit and should be removed.

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2. The Request Fails to Identify with Reasonable Particularity the Item to be Inspected

To the contrary, the Request is quite particular. It seeks documents that support a specific allegation made in the complaint against Mr. Blakemen. Who better to determine what documents support this pled contention then the plaintiffs making the allegations?

The objection wholly lacks merit and should be removed.

3. The Request invades the Attorney Client Privilege and Attorney Work Product Doctrine

The Request seeks documents that support plaintiff's material allegations made against Mr. Blakeman. It does not seek communication with plaintiffs' counsels, it does not seek information that is work product. If plaintiffs intend to use documents offensively against Mr. Blakeman they cannot withhold such under the cloak of a privilege.

Plaintiffs' Contention

Contrary to Defendant's contention, Plaintiffs produced 2,029 files on November 4, 2016 (see Decl. Otten, **Exh. C)** and 22 files on November 17, 2016 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request for Production of Documents. Despite these productions, Mr. Blakeman has insisted on moving forward with this motion to compel, yet has altogether failed to identify any deficiencies or issues with these productions.

Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection. Plaintiffs are entitled to preserve their objections in their discovery responses under Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's document requests based on the premature nature of the requests, their lack of reasonable particularity, and the attorney-client privilege and/or attorney work product doctrine.

Plaintiffs are also entitled to – and fully intend to – supplement their discovery responses when they "learn[] that in some material respect the disclosure or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is precisely what Plaintiffs did when they produced documents on November 17, 2016. Plaintiffs intend to continue to supplement their document production as necessary, consistent with the Rules.

Further, Plaintiffs sought to depose Mr. Blakeman several months after they filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr. Blakeman even earlier – prior to having produced any documents – so long as Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1). Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more than five months after Plaintiffs filed the Complaint, is without any prejudice to Mr. Blakeman.

2. Any and all DOCUMENTS that support your contention in paragraph 7 of the Complaint that BRANT BLAKEMAN "is responsible in some manner for the Bane Act violations and public nuisance described in the Complaint."

Plaintiffs' Response to Document Request #2

Responding Party objects to this request for production as premature. Because this request for production necessarily relies upon a contention, and because this matter is in its early stages and pretrial discovery has only just begun, Responding Party is unable to provide a complete response at this time, nor is required to do so. See *Kmiec v. Powerwave Techs. Inc et al.* 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; see also *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2.

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Responding Party further objects to this request on the grounds that it violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to "describe with reasonable particularity each item of category of items to be inspected." Propounding Party's request for production do not describe an item or category of items with reasonable particularity.

Responding Party further objects to the extent that this request for production invades attorney-client privilege and/or violates the work product doctrine by compelling Responding Party to disclose privileged communications and/or litigation strategy. Responding Party will not provide any such information.

Subject to and without waiver of the foregoing objections, Responding party responds as follows:

Responding Party will produce all responsive documents within its possession, custody, or control.

Defendant Brant Blakeman's Contention

The production request seeks documents that support plaintiff's contentions against Brant Blakeman in his personal capacity and specifically, not as a member of a group but as an individual. No documents have been produced despite the response's assertion that responsive documents would be produced in response to Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

Failure to produce the information sought by the Request is intended only to prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely hoping to take while he is unprepared in his defense to plaintiffs' contentions against him.

The objections made in this response are largely without merit and it is unknown if any information is being withheld based on the objections. If responsive material is being withheld based on any such objection, the response must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the

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part of the request being objected to. (Ibid.) No such indication is made in the response.

Most importantly, the objections lack merit:

1. The Production Request is Premature as Seeking information Related to "Contentions"

Plaintiff objects that producing the information supporting its contentions is premature on the same basis as it relates to contentions. The response cites to the *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address "contention" production requests. To the contrary, the Court in *In re Convergent Technologies Securities Litigation* expressly noted that the analysis applied to when contention interrogatories needed be answered does not apply to production requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333 ["Nor do the generalizations articulated here apply to Rule 34 requests for documents that bear on material factual allegations."]). The request at issue here bears on material factual allegations plaintiff has made against Mr. Blakeman. Material facts are discoverable at the outset of litigation and these facts are certainly not ones that would be in the control of defendant.

Plaintiffs have had an opportunity through informal requests from the City of Palos Verdes and in discovery in this litigation to obtain literally thousands of police records related to the subject matter of this lawsuit. In initial disclosures Plaintiffs have identified hundreds of witnesses and copious documents that purportedly support their case. There is no basis in law for plaintiff to not now, at this phase of discovery in the litigation, not identify those specific documents that support any specific liability contentions as it applies to Mr. Blakeman as an individual. He is entitled to know precisely each liability contention - and any documents that support such contention - that is being made against him so that he may appropriately defend against them.

The objection wholly lacks merit and should be removed.

2. The Request Fails to Identify with Reasonable Particularity the Item to be Inspected

To the contrary, the Request is quite particular. It seeks documents that support a specific allegation made in the complaint against Mr. Blakemen. Who better to determine what documents support this pled contention then the plaintiffs making the allegations?

The objection wholly lacks merit and should be removed.

3. The Request invades the Attorney Client Privilege and Attorney Work Product Doctrine

The Request seeks documents that support plaintiff's material allegations made against Mr. Blakeman. It does not seek communication with plaintiffs' counsels, it does not seek information that is work product. If plaintiffs intend to use documents offensively against Mr. Blakeman they cannot withhold such under the cloak of a privilege.

Plaintiffs' Contention

Contrary to Defendant's contention, Plaintiffs produced 2,029 files on November 4, 2016 (see Decl. Otten, **Exh. C)** and 22 files on November 17, 2016 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request for Production of Documents. Despite these productions, Mr. Blakeman has insisted on moving forward with this motion to compel, yet has altogether failed to identify any deficiencies or issues with these productions.

Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection. Plaintiffs are entitled to preserve their objections in their discovery responses under Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's document requests based on the premature nature of the requests, their lack of reasonable particularity, and the attorney-client privilege and/or attorney work product doctrine.

Plaintiffs are also entitled to – and fully intend to – supplement their discovery responses when they "learn[] that in some material respect the disclosure or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is precisely what Plaintiffs did when they produced documents on November 17, 2016. Plaintiffs intend to continue to supplement their document production as necessary, consistent with the Rules.

Further, Plaintiffs sought to depose Mr. Blakeman several months after they filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr. Blakeman even earlier – prior to having produced any documents – so long as Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1). Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more than five months after Plaintiffs filed the Complaint, is without any prejudice to Mr. Blakeman.

3. Any and all DOCUMENTS that support your contention in paragraph 18 of the Complaint that BRANT BLAKEMAN "sell[s] market[s] and use[s] illegal controlled substances from the Lunada Bay Bluffs and the Rock Fort."

Plaintiffs' Response to Document Request #3

Responding Party objects to this request for production as premature. Because this request for production necessarily relies upon a contention, and because this matter is in its early stages and pretrial discovery has only just begun, Responding Party is unable to provide a complete response at this time, nor is required to do so. See *Kmiec v. Powerwave Techs. Inc et al*. 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; see also *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2.

Responding Party further objects to this request on the grounds that it violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to "describe with reasonable particularity each item of category of items to be inspected."

Propounding Party's request for production do not describe an item or category of items with reasonable particularity.

Responding Party further objects to the extent that this request for production invades attorney-client privilege and/or violates the work product doctrine by compelling Responding Party to disclose privileged communications and/or litigation strategy. Responding Party will not provide any such information.

Subject to and without waiver of the foregoing objections, Responding party responds as follows:

Responding Party will produce all responsive documents within its possession, custody, or control.

Defendant Brant Blakeman's Contention

The production request seeks documents that support plaintiff's specific contention made against Brant Blakeman in his personal capacity, not as a member of a group but as an individual. No documents have been produced despite the response's assertion that responsive documents would be produced in response to Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

Failure to produce the information sought by the Request is intended only to prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely hoping to take while he is unprepared in his defense to plaintiffs' contentions against him.

The objections made in this response are largely without merit and it is unknown if any information is being withheld based on the objections. If responsive material is being withheld based on any such objection, the response must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the part of the request being objected to. (Ibid.) No such indication is made in the response.

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Most importantly, the objections lack merit:

1. The Production Request is Premature as Seeking information Related to "Contentions"

Plaintiff objects that producing the information supporting its contentions is premature on the same basis as it relates to contentions. The response cites to the *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address "contention" production requests. To the contrary, the Court in *In re Convergent Technologies Securities Litigation* expressly noted that the analysis applied to when contention interrogatories needed be answered does not apply to production requests. (In *re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333 ["Nor do the generalizations articulated here apply to Rule 34 requests for documents that bear on material factual allegations."]). The request at issue here bears on material factual allegations plaintiff has made against Mr. Blakeman. Material facts are discoverable at the outset of litigation and these facts are certainly not ones that would be in the control of defendant.

Plaintiffs have had an opportunity through informal requests from the City of Palos Verdes and in discovery in this litigation to obtain literally thousands of police records related to the subject matter of this lawsuit. In initial disclosures Plaintiffs have identified hundreds of witnesses and copious documents that purportedly support their case. There is no basis in law for plaintiff to not now, at this phase of discovery in the litigation, not identify those specific documents that support any specific liability contentions as it applies to Mr. Blakeman as an individual. He is entitled to know precisely each liability contention - and any documents that support such contention - that is being made against him so that he may appropriately defend against them.

The objection wholly lacks merit and should be removed.

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2. The Request Fails to Identify with Reasonable Particularity the Item to be Inspected

To the contrary, the Request is quite particular. It seeks documents that support a specific allegation made in the complaint against Mr. Blakemen. Who better to determine what documents support this pled contention then the plaintiffs making the allegations?

The objection wholly lacks merit and should be removed.

3. The Request invades the Attorney Client Privilege and Attorney Work Product Doctrine

The Request seeks documents that support plaintiff's material allegations made against Mr. Blakeman. It does not seek communication with plaintiffs' counsels, it does not seek information that is work product. If plaintiffs intend to use documents offensively against Mr. Blakeman they cannot withhold such under the cloak of a privilege.

Plaintiffs' Contention

Contrary to Defendant's contention, Plaintiffs produced 2,029 files on November 4, 2016 (see Decl. Otten, **Exh. C)** and 22 files on November 17, 2016 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request for Production of Documents. Despite these productions, Mr. Blakeman has insisted on moving forward with this motion to compel, yet has altogether failed to identify any deficiencies or issues with these productions.

Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection. Plaintiffs are entitled to preserve their objections in their discovery responses under Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's document requests based on the premature nature of the requests, their lack of reasonable particularity, and the attorney-client privilege and/or attorney work product doctrine.

Plaintiffs are also entitled to – and fully intend to – supplement their discovery responses when they "learn[] that in some material respect the disclosure or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is precisely what Plaintiffs did when they produced documents on November 17, 2016. Plaintiffs intend to continue to supplement their document production as necessary, consistent with the Rules.

Further, Plaintiffs sought to depose Mr. Blakeman several months after they filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr. Blakeman even earlier – prior to having produced any documents – so long as Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1). Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more than five months after Plaintiffs filed the Complaint, is without any prejudice to Mr. Blakeman.

4. Any and all DOCUMENTS that support your contention in paragraph 18 of the Complaint that BLAKE BRANTMAN "impede[d] boat traffic" at any time.

Plaintiffs' Response to Document Request #4

Responding Party objects to this request for production as premature. Because this request for production necessarily relies upon a contention, and because this matter is in its early stages and pretrial discovery has only just begun, Responding Party is unable to provide a complete response at this time, nor is required to do so. See *Kmiec v. Powerwave Techs. Inc et al*. 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; see also *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2.

Responding Party further objects to this request on the grounds that it violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to "describe with reasonable particularity each item of category of items to be inspected."

Propounding Party's request for production do not describe an item or category of items with reasonable particularity.

Responding Party further objects to the extent that this request for production invades attorney-client privilege and/or violates the work product doctrine by compelling Responding Party to disclose privileged communications and/or litigation strategy. Responding Party will not provide any such information.

Subject to and without waiver of the foregoing objections, Responding party responds as follows:

Responding Party will produce all responsive documents within its possession, custody, or control.

Defendant Brant Blakeman's Contention

The production request seeks documents that support plaintiff's specific contention made against Brant Blakeman in his personal capacity, not as a member of a group but as an individual. No documents have been produced despite the response's assertion that responsive documents would be produced in response to Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

Failure to produce the information sought by the Request is intended only to prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely hoping to take while he is unprepared in his defense to plaintiffs' contentions against him.

The objections made in this response are largely without merit and it is unknown if any information is being withheld based on the objections. If responsive material is being withheld based on any such objection, the response must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the part of the request being objected to. (Ibid.) No such indication is made in the response.

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Most importantly, the objections lack merit:

1. The Production Request is Premature as Seeking information Related to "Contentions"

Plaintiff objects that producing the information supporting its contentions is premature on the same basis as it relates to contentions. The response cites to the *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address "contention" production requests. To the contrary, the Court in *In re Convergent Technologies Securities Litigation* expressly noted that the analysis applied to when contention interrogatories needed be answered does not apply to production requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333 ["Nor do the generalizations articulated here apply to Rule 34 requests for documents that bear on material factual allegations."]). The request at issue here bears on material factual allegations plaintiff has made against Mr. Blakeman. Material facts are discoverable at the outset of litigation and these facts are certainly not ones that would be in the control of defendant.

Plaintiffs have had an opportunity through informal requests from the City of Palos Verdes and in discovery in this litigation to obtain literally thousands of police records related to the subject matter of this lawsuit. In initial disclosures Plaintiffs have identified hundreds of witnesses and copious documents that purportedly support their case. There is no basis in law for plaintiff to not now, at this phase of discovery in the litigation, not identify those specific documents that support any specific liability contentions as it applies to Mr. Blakeman as an individual. He is entitled to know precisely each liability contention - and any documents that support such contention - that is being made against him so that he may appropriately defend against them.

The objection wholly lacks merit and should be removed.

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2. The Request Fails to Identify with Reasonable Particularity the Item to be Inspected

To the contrary, the Request is quite particular. It seeks documents that support a specific allegation made in the complaint against Mr. Blakemen. Who better to determine what documents support this pled contention then the plaintiffs making the allegations?

The objection wholly lacks merit and should be removed.

3. The Request invades the Attorney Client Privilege and Attorney Work Product Doctrine

The Request seeks documents that support plaintiff's material allegations made against Mr. Blakeman. It does not seek communication with plaintiffs' counsels, it does not seek information that is work product. If plaintiffs intend to use documents offensively against Mr. Blakeman they cannot withhold such under the cloak of a privilege.

Plaintiffs' Contention

Contrary to Defendant's contention, Plaintiffs produced 2,029 files on November 4, 2016 (see Decl. Otten, **Exh. C)** and 22 files on November 17, 2016 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request for Production of Documents. Despite these productions, Mr. Blakeman has insisted on moving forward with this motion to compel, yet has altogether failed to identify any deficiencies or issues with these productions.

Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection. Plaintiffs are entitled to preserve their objections in their discovery responses under Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's document requests based on the premature nature of the requests, their lack of reasonable particularity, and the attorney-client privilege and/or attorney work product doctrine.

Plaintiffs are also entitled to – and fully intend to – supplement their discovery responses when they "learn[] that in some material respect the disclosure or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is precisely what Plaintiffs did when they produced documents on November 17, 2016. Plaintiffs intend to continue to supplement their document production as necessary, consistent with the Rules.

Further, Plaintiffs sought to depose Mr. Blakeman several months after they filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr. Blakeman even earlier – prior to having produced any documents – so long as Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1). Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more than five months after Plaintiffs filed the Complaint, is without any prejudice to Mr. Blakeman.

5. Any and all DOCUMENTS that support your contention in paragraph 18 of the Complaint that BLAKE BRANTMAN "dangerously disregard[ed] surfing rules" at any time.

Plaintiffs' Response to Document Request #5

Responding Party objects to this request for production as premature. Because this request for production necessarily relies upon a contention, and because this matter is in its early stages and pretrial discovery has only just begun, Responding Party is unable to provide a complete response at this time, nor is required to do so. See *Kmiec v. Powerwave Techs. Inc et al.* 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; see also *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2.

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Responding Party further objects to this request on the grounds that it violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to "describe with reasonable particularity each item of category of items to be inspected." Propounding Party's request for production do not describe an item or category of items with reasonable particularity.

Responding Party further objects to the extent that this request for production invades attorney-client privilege and/or violates the work product doctrine by compelling Responding Party to disclose privileged communications and/or litigation strategy. Responding Party will not provide any such information.

Subject to and without waiver of the foregoing objections, Responding party responds as follows:

Responding Party will produce all responsive documents within its possession, custody, or control.

Defendant Brant Blakeman's Contention

The production request seeks documents that support plaintiff's specific contention made against Brant Blakeman in his personal capacity, not as a member of a group but as an individual. No documents have been produced despite the response's assertion that responsive documents would be produced in response to Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

Failure to produce the information sought by the Request is intended only to prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely hoping to take while he is unprepared in his defense to plaintiffs' contentions against him.

The objections made in this response are largely without merit and it is unknown if any information is being withheld based on the objections. If responsive material is being withheld based on any such objection, the response must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the

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part of the request being objected to. (Ibid.) No such indication is made in the response.

Most importantly, the objections lack merit:

1. The Production Request is Premature as Seeking information Related to "Contentions"

Plaintiff objects that producing the information supporting its contentions is premature on the same basis as it relates to contentions. The response cites to the *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address "contention" production requests. To the contrary, the Court in *In re Convergent Technologies Securities Litigation* expressly noted that the analysis applied to when contention interrogatories needed be answered does not apply to production requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333 ["Nor do the generalizations articulated here apply to Rule 34 requests for documents that bear on material factual allegations."]). The request at issue here bears on material factual allegations plaintiff has made against Mr. Blakeman. Material facts are discoverable at the outset of litigation and these facts are certainly not ones that would be in the control of defendant.

Plaintiffs have had an opportunity through informal requests from the City of Palos Verdes and in discovery in this litigation to obtain literally thousands of police records related to the subject matter of this lawsuit. In initial disclosures Plaintiffs have identified hundreds of witnesses and copious documents that purportedly support their case. There is no basis in law for plaintiff to not now, at this phase of discovery in the litigation, not identify those specific documents that support any specific liability contentions as it applies to Mr. Blakeman as an individual. He is entitled to know precisely each liability contention - and any documents that support such contention - that is being made against him so that he may appropriately defend against them.

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The objection wholly lacks merit and should be removed.

2. The Request Fails to Identify with Reasonable Particularity the Item to be Inspected

To the contrary, the Request is quite particular. It seeks documents that support a specific allegation made in the complaint against Mr. Blakemen. Who better to determine what documents support this pled contention then the plaintiffs making the allegations?

The objection wholly lacks merit and should be removed.

3. The Request invades the Attorney Client Privilege and Attorney Work Product Doctrine

The Request seeks documents that support plaintiff's material allegations made against Mr. Blakeman. It does not seek communication with plaintiffs' counsels, it does not seek information that is work product. If plaintiffs intend to use documents offensively against Mr. Blakeman they cannot withhold such under the cloak of a privilege.

Plaintiffs' Contention

Contrary to Defendant's contention, Plaintiffs produced 2,029 files on November 4, 2016 (see Decl. Otten, **Exh. C)** and 22 files on November 17, 2016 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request for Production of Documents. Despite these productions, Mr. Blakeman has insisted on moving forward with this motion to compel, yet has altogether failed to identify any deficiencies or issues with these productions.

Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection. Plaintiffs are entitled to preserve their objections in their discovery responses under Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's document requests based on the premature nature of the requests, their lack of reasonable particularity, and the attorney-client privilege and/or attorney work

product doctrine.

Plaintiffs are also entitled to – and fully intend to – supplement their discovery responses when they "learn[] that in some material respect the disclosure or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is precisely what Plaintiffs did when they produced documents on November 17, 2016. Plaintiffs intend to continue to supplement their document production as necessary, consistent with the Rules.

Further, Plaintiffs sought to depose Mr. Blakeman several months after they filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr. Blakeman even earlier – prior to having produced any documents – so long as Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1). Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more than five months after Plaintiffs filed the Complaint, is without any prejudice to Mr. Blakeman.

6. Any and all DOCUMENTS that support your contention that BLAKE BRANTMAN has illegally extorted month from beachgoers who wish to use Lumada Bay for recreational purposes. (See paragraph 33j. of the Complaint.)

Plaintiffs' Response

Responding Party objects to this request for production as premature. Because this request for production necessarily relies upon a contention, and because this matter is in its early stages and pretrial discovery has only just begun, Responding Party is unable to provide a complete response at this time, nor is required to do so. See *Kmiec v. Powerwave Techs. Inc et al.* 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; see also *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2.

Responding Party further objects to this request on the grounds that it violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to "describe with

reasonable particularity each item of category of items to be inspected." Propounding Party's request for production do not describe an item or category of items with reasonable particularity.

Responding Party further objects to the extent that this request for production invades attorney-client privilege and/or violates the work product doctrine by compelling Responding Party to disclose privileged communications and/or litigation strategy. Responding Party will not provide any such information.

Subject to and without waiver of the foregoing objections, Responding party responds as follows:

Responding Party will produce all responsive documents within its possession, custody, or control.

Defendant Brant Blakeman's Contention

The production request seeks documents that support plaintiff's specific contention made against Brant Blakeman in his personal capacity, not as a member of a group but as an individual. No documents have been produced despite the response's assertion that responsive documents would be produced in response to Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

Failure to produce the information sought by the Request is intended only to prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely hoping to take while he is unprepared in his defense to plaintiffs' contentions against him.

The objections made in this response are largely without merit and it is unknown if any information is being withheld based on the objections. If responsive material is being withheld based on any such objection, the response must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the part of the request being objected to. (Ibid.) No such indication is made in the response.

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Most importantly, the objections lack merit:

1. The Production Request is Premature as Seeking information Related to "Contentions"

Plaintiff objects that producing the information supporting its contentions is premature on the same basis as it relates to contentions. The response cites to the *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address "contention" production requests. To the contrary, the Court in *In re Convergent Technologies Securities Litigation* expressly noted that the analysis applied to when contention interrogatories needed be answered does not apply to production requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333 ["Nor do the generalizations articulated here apply to Rule 34 requests for documents that bear on material factual allegations."]). The request at issue here bears on material factual allegations plaintiff has made against Mr. Blakeman. Material facts are discoverable at the outset of litigation and these facts are certainly not ones that would be in the control of defendant.

Plaintiffs have had an opportunity through informal requests from the City of Palos Verdes and in discovery in this litigation to obtain literally thousands of police records related to the subject matter of this lawsuit. In initial disclosures Plaintiffs have identified hundreds of witnesses and copious documents that purportedly support their case. There is no basis in law for plaintiff to not now, at this phase of discovery in the litigation, not identify those specific documents that support any specific liability contentions as it applies to Mr. Blakeman as an individual. He is entitled to know precisely each liability contention - and any documents that support such contention - that is being made against him so that he may appropriately defend against them.

The objection wholly lacks merit and should be removed.

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2. The Request Fails to Identify with Reasonable Particularity the Item to be Inspected

To the contrary, the Request is quite particular. It seeks documents that support a specific allegation made in the complaint against Mr. Blakemen. Who better to determine what documents support this pled contention then the plaintiffs making the allegations?

The objection wholly lacks merit and should be removed.

3. The Request invades the Attorney Client Privilege and Attorney Work Product Doctrine

The Request seeks documents that support plaintiff's material allegations made against Mr. Blakeman. It does not seek communication with plaintiffs' counsels, it does not seek information that is work product. If plaintiffs intend to use documents offensively against Mr. Blakeman they cannot withhold such under the cloak of a privilege.

Plaintiffs' Contention

Contrary to Defendant's contention, Plaintiffs produced 2,029 files on November 4, 2016 (see Decl. Otten, **Exh. C)** and 22 files on November 17, 2016 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request for Production of Documents. Despite these productions, Mr. Blakeman has insisted on moving forward with this motion to compel, yet has altogether failed to identify any deficiencies or issues with these productions.

Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection. Plaintiffs are entitled to preserve their objections in their discovery responses under Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's document requests based on the premature nature of the requests, their lack of reasonable particularity, and the attorney-client privilege and/or attorney work product doctrine.

Plaintiffs are also entitled to – and fully intend to – supplement their discovery responses when they "learn[] that in some material respect the disclosure or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is precisely what Plaintiffs did when they produced documents on November 17, 2016. Plaintiffs intend to continue to supplement their document production as necessary, consistent with the Rules.

Further, Plaintiffs sought to depose Mr. Blakeman several months after they filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr. Blakeman even earlier – prior to having produced any documents – so long as Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1). Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more than five months after Plaintiffs filed the Complaint, is without any prejudice to Mr. Blakeman.

7. Any and all DOCUMENTS that support your contention that BLAKE BRANTMAN was a part of a Civil Conspiracy as identified in your complaint in paragraphs 51 through 53.

Plaintiffs' Response to Document Request #7

Responding Party objects to this request for production as premature. Because this request for production necessarily relies upon a contention, and because this matter is in its early stages and pretrial discovery has only just begun, Responding Party is unable to provide a complete response at this time, nor is required to do so. See *Kmiec v. Powerwave Techs. Inc et al.* 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; see also *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2.

Responding Party further objects to this request on the grounds that it violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to "describe with reasonable particularity each item of category of items to be inspected."

Propounding Party's request for production do not describe an item or category of items with reasonable particularity.

Responding Party further objects to the extent that this request for production invades attorney-client privilege and/or violates the work product doctrine by compelling Responding Party to disclose privileged communications and/or litigation strategy. Responding Party will not provide any such information.

Subject to and without waiver of the foregoing objections, Responding party responds as follows:

Responding Party will produce all responsive documents within its possession, custody, or control.

Defendant Brant Blakeman's Contention

The production request seeks documents that support plaintiff's specific contention made against Brant Blakeman in his personal capacity, not as a member of a group but as an individual. No documents have been produced despite the response's assertion that responsive documents would be produced in response to Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

Failure to produce the information sought by the Request is intended only to prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely hoping to take while he is unprepared in his defense to plaintiffs' contentions against him.

The objections made in this response are largely without merit and it is unknown if any information is being withheld based on the objections. If responsive material is being withheld based on any such objection, the response must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the part of the request being objected to. (Ibid.) No such indication is made in the response.

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Most importantly, the objections lack merit:

1. The Production Request is Premature as Seeking information Related to "Contentions"

Plaintiff objects that producing the information supporting its contentions is premature on the same basis as it relates to contentions. The response cites to the *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address "contention" production requests. To the contrary, the Court in *In re Convergent Technologies Securities Litigation* expressly noted that the analysis applied to when contention interrogatories needed be answered does not apply to production requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333 ["Nor do the generalizations articulated here apply to Rule 34 requests for documents that bear on material factual allegations."]). The request at issue here bears on material factual allegations plaintiff has made against Mr. Blakeman. Material facts are discoverable at the outset of litigation and these facts are certainly not ones that would be in the control of defendant.

Plaintiffs have had an opportunity through informal requests from the City of Palos Verdes and in discovery in this litigation to obtain literally thousands of police records related to the subject matter of this lawsuit. In initial disclosures Plaintiffs have identified hundreds of witnesses and copious documents that purportedly support their case. There is no basis in law for plaintiff to not now, at this phase of discovery in the litigation, not identify those specific documents that support any specific liability contentions as it applies to Mr. Blakeman as an individual. He is entitled to know precisely each liability contention - and any documents that support such contention - that is being made against him so that he may appropriately defend against them.

The objection wholly lacks merit and should be removed.

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2. The Request Fails to Identify with Reasonable Particularity the Item to be Inspected

To the contrary, the Request is quite particular. It seeks documents that support a specific allegation made in the complaint against Mr. Blakemen. Who better to determine what documents support this pled contention then the plaintiffs making the allegations?

The objection wholly lacks merit and should be removed.

3. The Request invades the Attorney Client Privilege and Attorney Work Product Doctrine

The Request seeks documents that support plaintiff's material allegations made against Mr. Blakeman. It does not seek communication with plaintiffs' counsels, it does not seek information that is work product. If plaintiffs intend to use documents offensively against Mr. Blakeman they cannot withhold such under the cloak of a privilege.

Plaintiffs' Contention

Contrary to Defendant's contention, Plaintiffs produced 2,029 files on November 4, 2016 (see Decl. Otten, **Exh. C)** and 22 files on November 17, 2016 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request for Production of Documents. Despite these productions, Mr. Blakeman has insisted on moving forward with this motion to compel, yet has altogether failed to identify any deficiencies or issues with these productions.

Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection. Plaintiffs are entitled to preserve their objections in their discovery responses under Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's document requests based on the premature nature of the requests, their lack of reasonable particularity, and the attorney-client privilege and/or attorney work product doctrine.

Plaintiffs are also entitled to – and fully intend to – supplement their discovery responses when they "learn[] that in some material respect the disclosure or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is precisely what Plaintiffs did when they produced documents on November 17, 2016. Plaintiffs intend to continue to supplement their document production as necessary, consistent with the Rules.

Further, Plaintiffs sought to depose Mr. Blakeman several months after they filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr. Blakeman even earlier – prior to having produced any documents – so long as Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1). Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more than five months after Plaintiffs filed the Complaint, is without any prejudice to Mr. Blakeman.

8. Any and all DOCUMENTS that support plaintiffs' First Cause of Action in the Complaint (Bane Act Violations) against BRANT BLAKEMAN.

Plaintiffs' Response to Document Request #8

Responding Party objects to this request for production as premature. Because this request for production necessarily relies upon a contention, and because this matter is in its early stages and pretrial discovery has only just begun, Responding Party is unable to provide a complete response at this time, nor is required to do so. See *Kmiec v. Powerwave Techs. Inc et al.* 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; see also *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2.

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Responding Party further objects to this request on the grounds that it violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to "describe with reasonable particularity each item of category of items to be inspected." Propounding Party's request for production do not describe an item or category of items with reasonable particularity.

Responding Party further objects to the extent that this request for production invades attorney-client privilege and/or violates the work product doctrine by compelling Responding Party to disclose privileged communications and/or litigation strategy. Responding Party will not provide any such information.

Subject to and without waiver of the foregoing objections, Responding party responds as follows:

Responding Party will produce all responsive documents within its possession, custody, or control.

Defendant Brant Blakeman's Contention

The production request seeks documents that support plaintiff's specific contention made against Brant Blakeman in his personal capacity, not as a member of a group but as an individual. No documents have been produced despite the response's assertion that responsive documents would be produced in response to Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

Failure to produce the information sought by the Request is intended only to prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely hoping to take while he is unprepared in his defense to plaintiffs' contentions against him.

The objections made in this response are largely without merit and it is unknown if any information is being withheld based on the objections. If responsive material is being withheld based on any such objection, the response must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the

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part of the request being objected to. (Ibid.) No such indication is made in the response.

Most importantly, the objections lack merit:

1. The Production Request is Premature as Seeking information Related to "Contentions"

Plaintiff objects that producing the information supporting its contentions is premature on the same basis as it relates to contentions. The response cites to the *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address "contention" production requests. To the contrary, the Court in *In re Convergent Technologies Securities Litigation* expressly noted that the analysis applied to when contention interrogatories needed be answered does not apply to production requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333 ["Nor do the generalizations articulated here apply to Rule 34 requests for documents that bear on material factual allegations."]). The request at issue here bears on material factual allegations plaintiff has made against Mr. Blakeman. Material facts are discoverable at the outset of litigation and these facts are certainly not ones that would be in the control of defendant.

Plaintiffs have had an opportunity through informal requests from the City of Palos Verdes and in discovery in this litigation to obtain literally thousands of police records related to the subject matter of this lawsuit. In initial disclosures Plaintiffs have identified hundreds of witnesses and copious documents that purportedly support their case. There is no basis in law for plaintiff to not now, at this phase of discovery in the litigation, not identify those specific documents that support any specific liability contentions as it applies to Mr. Blakeman as an individual. He is entitled to know precisely each liability contention - and any documents that support such contention - that is being made against him so that he may appropriately defend against them.

The objection wholly lacks merit and should be removed.

2. The Request Fails to Identify with Reasonable Particularity the Item to be Inspected

To the contrary, the Request is quite particular. It seeks documents that support a specific allegation made in the complaint against Mr. Blakemen. Who better to determine what documents support this pled contention then the plaintiffs making the allegations?

The objection wholly lacks merit and should be removed.

3. The Request invades the Attorney Client Privilege and Attorney Work Product Doctrine

The Request seeks documents that support plaintiff's material allegations made against Mr. Blakeman. It does not seek communication with plaintiffs' counsels, it does not seek information that is work product. If plaintiffs intend to use documents offensively against Mr. Blakeman they cannot withhold such under the cloak of a privilege.

Plaintiffs' Contention

Contrary to Defendant's contention, Plaintiffs produced 2,029 files on November 4, 2016 (see Decl. Otten, **Exh. C)** and 22 files on November 17, 2016 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request for Production of Documents. Despite these productions, Mr. Blakeman has insisted on moving forward with this motion to compel, yet has altogether failed to identify any deficiencies or issues with these productions.

Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection. Plaintiffs are entitled to preserve their objections in their discovery responses under Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's document requests based on the premature nature of the requests, their lack of reasonable particularity, and the attorney-client privilege and/or attorney work product doctrine.

Plaintiffs are also entitled to – and fully intend to – supplement their discovery responses when they "learn[] that in some material respect the disclosure or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is precisely what Plaintiffs did when they produced documents on November 17, 2016. Plaintiffs intend to continue to supplement their document production as necessary, consistent with the Rules.

Further, Plaintiffs sought to depose Mr. Blakeman several months after they filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr. Blakeman even earlier – prior to having produced any documents – so long as Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1). Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more than five months after Plaintiffs filed the Complaint, is without any prejudice to Mr. Blakeman.

9. Any and all DOCUMENTS that support plaintiffs' Second Cause of Action in the Complaint (Public Nuisance) against BRANT BLAKEMAN.

Plaintiffs' Response to Document Request #9

Responding Party objects to this request for production as premature. Because this request for production necessarily relies upon a contention, and because this matter is in its early stages and pretrial discovery has only just begun, Responding Party is unable to provide a complete response at this time, nor is required to do so. See *Kmiec v. Powerwave Techs. Inc et al.* 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1; see also *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2.

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Responding Party further objects to this request on the grounds that it violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to "describe with reasonable particularity each item of category of items to be inspected." Propounding Party's request for production do not describe an item or category of items with reasonable particularity.

Responding Party further objects to the extent that this request for production invades attorney-client privilege and/or violates the work product doctrine by compelling Responding Party to disclose privileged communications and/or litigation strategy. Responding Party will not provide any such information.

Subject to and without waiver of the foregoing objections, Responding party responds as follows:

Responding Party will produce all responsive documents within its possession, custody, or control.

Defendant Brant Blakeman's Contention

The production request seeks documents that support plaintiff's specific contention made against Brant Blakeman in his personal capacity, not as a member of a group but as an individual. No documents have been produced despite the response's assertion that responsive documents would be produced in response to Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

Failure to produce the information sought by the Request is intended only to prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely hoping to take while he is unprepared in his defense to plaintiffs' contentions against him.

The objections made in this response are largely without merit and it is unknown if any information is being withheld based on the objections. If responsive material is being withheld based on any such objection, the response must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the part of the request being objected to. (Ibid.) No such indication is made in the

response.

Most importantly, the objections lack merit:

1. <u>The Production Request is Premature as Seeking information Related to "Contentions"</u>

Plaintiff objects that producing the information supporting its contentions is premature on the same basis as it relates to contentions. The response cites to the *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address "contention" production requests. To the contrary, the Court in *In re Convergent Technologies Securities Litigation* expressly noted that the analysis applied to when contention interrogatories needed be answered does not apply to production requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333 ["Nor do the generalizations articulated here apply to Rule 34 requests for documents that bear on material factual allegations."]). The request at issue here bears on material factual allegations plaintiff has made against Mr. Blakeman. Material facts are discoverable at the outset of litigation and these facts are certainly not ones that would be in the control of defendant.

Plaintiffs have had an opportunity through informal requests from the City of Palos Verdes and in discovery in this litigation to obtain literally thousands of police records related to the subject matter of this lawsuit. In initial disclosures Plaintiffs have identified hundreds of witnesses and copious documents that purportedly support their case. There is no basis in law for plaintiff to not now, at this phase of discovery in the litigation, not identify those specific documents that support any specific liability contentions as it applies to Mr. Blakeman as an individual. He is entitled to know precisely each liability contention - and any documents that support such contention - that is being made against him so that he may appropriately defend against them.

The objection wholly lacks merit and should be removed.

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2. The Request Fails to Identify with Reasonable Particularity the Item to be Inspected

To the contrary, the Request is quite particular. It seeks documents that support a specific allegation made in the complaint against Mr. Blakemen. Who better to determine what documents support this pled contention then the plaintiffs making the allegations?

The objection wholly lacks merit and should be removed.

3. The Request invades the Attorney Client Privilege and Attorney Work Product Doctrine

The Request seeks documents that support plaintiff's material allegations made against Mr. Blakeman. It does not seek communication with plaintiffs' counsels, it does not seek information that is work product. If plaintiffs intend to use documents offensively against Mr. Blakeman they cannot withhold such under the cloak of a privilege.

Plaintiffs' Contention

Contrary to Defendant's contention, Plaintiffs produced 2,029 files on November 4, 2016 (see Decl. Otten, **Exh. C)** and 22 files on November 17, 2016 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request for Production of Documents. Despite these productions, Mr. Blakeman has insisted on moving forward with this motion to compel, yet has altogether failed to identify any deficiencies or issues with these productions.

Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection. Plaintiffs are entitled to preserve their objections in their discovery responses under Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's document requests based on the premature nature of the requests, their lack of reasonable particularity, and the attorney-client privilege and/or attorney work product doctrine.

Plaintiffs are also entitled to – and fully intend to – supplement their discovery responses when they "learn[] that in some material respect the disclosure or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is precisely what Plaintiffs did when they produced documents on November 17, 2016. Plaintiffs intend to continue to supplement their document production as necessary, consistent with the Rules.

Further, Plaintiffs sought to depose Mr. Blakeman several months after they filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr. Blakeman even earlier – prior to having produced any documents – so long as Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1). Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more than five months after Plaintiffs filed the Complaint, is without any prejudice to Mr. Blakeman.

Pursuant to L.R. 5-4.3.4 all signatories listed below concur with the filing's content and have authorized the filing of this Stipulation.

Dated: November 28, 2016

Respectfully Submitted

/s/ Kurt A. Franklin
KURT A. FRANKLIN
Attorney for Plaintiffs

Dated: November 28, 2016

Respectfully Submitted

/s/ Victor Otten
VICTOR OTTEN
Attorney for Plaintiffs

Dated: November 28, 2016

Respectfully Submitted

/s/ Peter Crossin
RICHARD DIEFFENBACH
JOHN P. WORGUL
PETER CROSSIN
Attorney for Defendant Brant Blakeman

Dated: November 28, 2016

Respectfully Submitted

/s/ Robert S. Cooper
ROBERT S. COOPER
Attorney for Defendant Brant Blakeman

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 16-02129 SJO (RAOx)	Date	August 29, 2016
Title	Cory Spencer et al v. Lunada Bay Boys et al		

Present: The Honorable	S. JAMES OTERO	
Victor Paul Cruz	Carol Zurborg	
Deputy Clerk	Court Reporter	Tape No.

Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:
Kurt A. Franklin Victor J. Otten	Tera A. Lutz John P. Worgul Richard P. Dieffenbach Peter T. Haven Mark Fields Edwin J. Richards, Jr. L. William Locke

Proceedings: SCHEDULING CONFERENCE

Matter called.

Counsel for Defendant Alan Johnston is not present.

Attorney William Locke advises the Court that his firm will represent defendants Frank Ferrara and Charlie Ferrara. The Court Orders that two said defendants will file an answer to the complaint by Friday, September 2, 2016.

The parties stipulate that the Court's order of 7/11/16 shall apply to all defendants.

The Court sets the following schedule:

The filing of a Motion for Class Certification shall be Friday, December 30, 2016; Opposition shall be due by January 13, 2017; Reply due Friday, January 20, 2017; Hearing on motion shall be set for Tuesday, February 21, 2017 @ 10:00 a.m.

Jury Trial: Tuesday, November 7, 2017 @ 9:00 a.m.

Pretrial Conference: Monday, October 23, 2017 @ 9:00 a.m.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 16-02129 SJO (RAOx)	Date	August 29, 2016
Title	Cory Spencer et al v. Lunada Bay Boys et al		

Motion Cutoff: Monday, August 21, 2017 @ 10:00 a.m.

Discovery Cutoff: Monday, August 7, 2017

Last Date to Amend: Not provided

Reference of the above case to the Alternative Dispute Resolution Program is vacated. Settlement is referred to Private Mediation for all further proceedings.

All discovery disputes are to be brought before the Magistrate Judge assigned to the case. The parties are reminded of their obligations under Fed. R. Civ. P. 26-1(a) to disclose information without a discovery request.

Court advises counsel that all Pretrial documents must be filed in compliance with the Court's standing order, including but not limited to:

1. All Jury Instructions, agreed and opposed;
2. Verdict Forms;
3. Proposed Voir Dire Questions;
4. Agreed-To Statement of Case;
5. Witness List, listing each witness and time estimates to conduct direct, cross, redirect and recross;
6. Trial Brief and Memorandum of Contentions;
7. Joint Rule 26(f) Report;
8. If Court Trial, file Findings of Fact and Conclusions of Law and summaries of direct testimony at Pretrial Conference;
9. Motions in Limine are to be filed according to Local Rule 7 and will be heard at 9:00 a.m. the first day of trial;
10. Exhibits properly labeled, tagged, and in binders.

cc: ADR Coordinator

: 0/23

Initials of Preparer vpc